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THE LAW

RELATING TO

INCOME TAX,

WITH THE

STATUTES, FORMS, AND DECIDED CASES IN THE COURTS OF ENGLAND, SCOTLAND, AND IRELAND.

BY

ARTHUR ROBINSON, B.A.,

BARRISTER-AT-LAW,

Of the Middle Temple and North Eastern Circuit; late Scholar of Jesus College, Cambridge; one of the Examiners of the High Court of Justice.

SECOND EDITION.

LONDON:
STEVENS AND SONS, LIMITED,
119 & 120, CHANCERY LANE,
Law Publishers.
1908.

PREFACE.

In this Work it has been attempted to deal with the Income Tax Acts in a methodical and readily comprehensible manner, but at the same time to give the Acts themselves, and not only the subject-matter.

To attain this object the subject has been divided into three main heads—Part I. *Creation of Officials;* Part II. *Procedure;* Part III. *The Schedules;* while in Part IV. is placed the small though important subject of *Persons to be charged*, together with a few sections from the Acts which do not come naturally in the previous parts. The Author feels that although the arrangement is so simple, the sections of the Acts are less readily to be found than if the Acts had simply been given with the sections in their natural order. To remedy this defect, he has in Part II. adhered to the arrangement in the Taxes Management Act, 1880, as far as possible, and in Part III. to that of the Income Tax Act, 1842, in a similar manner. In addition to this, an index of all the sections in the Income Tax Acts has been given, and the Acts of 1842 and 1853 have been given in their natural form in the Appendix.

So few questions arise as to Procedure, that it has not been thought necessary to repeat the Taxes Management Act, 1880, in the Appendix.

Particular attention has been paid to the Index, which it has been endeavoured to make as exhaustive as possible.

The Author hopes that Part III. of this Work may be of some little assistance to the legal profession and to the Income Tax officials throughout the country. In Part III. it has been endeavoured to collect the whole of the Law relating to the Schedules, having as foundation the Income Tax Act, 1842, to which has been added the alterations made by various enactments and the cases dealing with the subject.

A. ROBINSON.

PREFACE TO THE SECOND EDITION.

No alterations have been made in the Scheme of the Book, but the Author has endeavoured to bring the Work up to date by the inclusion of all the recent Statutes and Decisions.

A. R.

11, King's Bench Walk, Temple, E.C.
December, 1907.

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ERRATA.

The words "And be it enacted that" have been repealed in nearly all the sections of the Act of 1842, but in the body of the work in some cases they have been left standing.

INTRODUCTION.

THOUGH the income tax is a tax which, from its continuous imposition, appears to be perpetual, it is really freshly imposed each year, and depends for its existence on a statute passed each year for the express purpose of giving life to it.

This statute is, as a rule, a short Act, and will trouble us very little, but it incorporates all the prior enactments applicable to income tax and thus makes them continuing. We have said that it incorporates all the prior enactments, but amongst these there are three that stand much above the others on account of their length and importance. These are:—

(1.) The Income Tax Act, 1842; 5-6 V. c. 35.
(2.) The Income Tax Act, 1853; 16-7 V. c. 34.
(3.) The Taxes Management Act, 1880. 43-4 V. c. 19.

The first and last of these create the body of officials to be employed in gathering the tax, and also deal with the procedure to be followed thereon.

The second is chiefly important as giving the schedules, five in number, into which property is divided for the purposes of the tax. These are as follows:—

Schedule (A.) imposes the tax on the ownership of lands, tenements, and hereditaments:

Schedule (B.) on the occupation of the same:

Schedule (C.) on interest, annuities, and dividends payable out of any public revenue:

Schedule (D.) on profits from trades and professions, and on interest of money, annuities, &c.

Schedule (E.) on public offices or employments of

profit, and upon annuities, pensions, &c. payable out of the public revenue except those charged under Schedule (C.).

These schedules replace those in the Act of 1842, but the provisions with regard to them are principally contained in that Act.

Income tax law, the outline of which has just been indicated, divides naturally into the following heads:—

A.—Creation of officials.

B.—Procedure of general application.

With these heads the Income Tax Act, 1842, and the Taxes Management Act, 1880, principally deal.

C.—The charging schedules.

With this head the Income Tax Acts, 1842 and 1853, principally deal.

This will explain the arrangement adopted in the book, wherein it is attempted to collect under the third head the mass of matter which is of the greatest importance to the general practitioner. The Taxes Management Act, 1880, is taken as the basis of procedure, and, when practicable, the order of the sections in that Act is followed. Similarly, the Income Tax Act, 1842, is taken as the basis of the part dealing with the schedules.

It should be noted that a number of minute verbal alterations have been made in the Acts of 1842 and 1853. The statutes are given, as amended, in the body of the work: the amending statutes will be found in the notes to the statutes in the Appendix.

Ireland.

16-7 V. c. 34.

Prior to the Income Tax Act, 1853, the income tax did not extend to Ireland. By the Income Tax Act, 1853, it was extended to Ireland, but there are a number of sections in the Act of 1853 which alter the procedure, &c. in that country. These will be found collected in the Appendix.

The Metropolis.

There are certain special regulations as to the Metropolis with regard to Schedules (A.) and (B.). These

will be found in the Metropolis Valuation Act, 1869, and are given in the Appendix. 32-3 V. c. 67.

As an introduction to the study of the income tax the following extract from the twenty-eighth report of the Commissioners of Inland Revenue will be found of great service.

Extract from the Twenty-eighth Report of the Commissioners of Inland Revenue.

Of all the taxes under the control of this board, there is none which can compare with the property and income tax, or, as it is popularly called, the income tax, in respect of the difficult questions which arise in its administration.

The tax affects a much greater number of persons than any other direct tax, and as the charges imposed by it are so heavy, it is no wonder that they are keenly scrutinised.

History of the income tax.

The origin of the tax dates from 1798. In that year an Act was introduced at the instance of Mr. Pitt, entitled "An Act for granting to His Majesty an aid and contribution for the prosecution of the war." This Act did not, in fact, impose a duty upon property, but imposed additional duties of assessed taxes, regulated by the amount of income which the person charged with assessed taxes possessed, provided such person possessed an income of 60*l.* a year or upwards. The produce of the tax for the first year under that system was 1,855,996*l.*

In the year 1799, by the Act of the 39 Geo. III. c. 13, the duties granted by the above-mentioned Act of 1798 were repealed, and in lieu thereof a duty was imposed upon incomes at the rate of 10 per cent. By this Act all persons were required to make returns of the whole of their income, from whatsoever source the same was derived, exemption being granted to those whose incomes were under 60*l.* a year, and reduced rates charged on incomes between that amount and 200*l.* a year. The produce of the tax in the first year after this alteration was 6,046,624*l.*, or about a quarter of a million for every penny of the tax.

In 1803 the present system of charging incomes upon all property and profit at their first source was introduced, and the return of the whole income, previously required, was abandoned. By this Act (43 Geo. III. c. 122) the various descriptions of income chargeable with duty were, for the first time, distributed under the several Schedules (A.), (B.), (C.), (D.), and (E.), as at present. A poundage rate, varying from 3*d.* to 11*d.* in the pound, was imposed upon all incomes between 60*l.* and 150*l.* a year, and 5 per cent. upon all incomes amounting to or exceeding the latter sum. The profits of farmers were assumed, for the purposes of the Act, to be three-fourths of the annual value of the lands and tenements they occupied if the land were in England, and one-half in Scotland, instead of requiring from that class a return of their actual profits, as in the case of trades and professions generally. Exemption was confined to incomes of less than 60*l.* a year, from whatever source arising. The principle of taxing income at its source is thus explained in some observations on the tax, published at the time under the authority of Government. "As the former duty was imposed on a general account of income from all sources, the present duty is imposed on each source, by itself, in the hands of the first possessor, at the same time permitting its diffusion through every natural channel in its course to the hands of the ultimate proprietor. Instead of the landlord and the various claimants upon him in succession, it looks to the occupier only. Instead of the creditor, it looks to the fund from which the debt is answered. In the place of a complicated account, collected from the various sources from which the income of an individual is derived, it applies to the source itself to answer for its increase. By these means its object is attained with more facility and certainty, and with less intricacy and disclosure, diminishing the occasions of evasion by the means of exaction; thus, the charge is gradually diffused from the first possessor to the ultimate

proprietor, the private transactions of life are protected from the public eye, and the revenue is more effectually guarded." The produce of the tax under this system at the reduced rate of 5 per cent. was almost equal to that of 1799, when the rate was 10 per cent.

Between the years 1803 and 1806 several Acts were passed relating to the income tax, which made no alteration in the principle, but in the latter year, by 46 Geo. III. c. 65, the rate of duty was again increased to 10 per cent. The exemption on incomes from realized property under 60*l.* a year (which before existed) was, with a few exceptions, repealed; entire exemption was limited to incomes under 50*l.* a year in the whole, and a graduated scale imposed upon incomes between 50*l.* and 150*l.* a year, but limited to profits of trades, professions, and offices.

The following extract from the guide book, published by the tax office at that period, will explain the grounds for the alteration. It states "that the regulation in the former Act by which exemption was granted on the whole of every person's income under 60*l.* a year, which was intended to have a strict and limited operation, has been introductive of the greatest frauds upon the public. It is notorious that persons living in easy circumstances, nay, even in apparent affluence, have returned their income under 60*l.*, although their annual expenditure has been treble that sum, and to whom there was no ground for imputing extravagance. The income of whole parishes has been swept away by this fraud, such persons generally bringing their income below 60*l.* Hence it is that the Legislature found the necessity of confining the exemptions to 50*l.*, that their former returns may be made use of."

By this Act of 1806, the dividends in the public funds, which had hitherto been returned by the recipients as a part of their income, were for the first time brought within the principle which charged income at its first source, provision being made that the bank should make the assessment, and deduct the tax from the dividends,

instead of a return for assessment being required from the proprietors of the stock. An exemption was, however, granted for that portion of the funds which was the *bonâ fide* property of foreigners resident abroad.

An allowance for the repairs of buildings, which before existed, was taken away by this Act, and abatements, previously allowed to persons with a certain number of children, were likewise discontinued. The allowance for life assurance was confined to persons whose incomes were less than 150*l.* a year. In the year 1816 the income tax ceased. It was not revived till the year 1842, when it was re-imposed by Sir Robert Peel's Government, not as a war tax, but for the purpose of repairing the deficiency which then occurred in the revenue to meet the expenditure of the country, and to enable the Government to make some reforms, with the view of benefiting the commerce and manufactures of the kingdom.

Sir Robert Peel's Act followed the general principles laid down in that of 1806; the duty was imposed at the rate of 7*d.* in the pound, being 2*l.* 18*s.* 4*d.* per cent., and total exemption was granted to persons whose whole income was under 150*l.* a year.

By the Act of 1842 the duty on farmers was imposed on half the annual value of the lands and tenements occupied in England instead of three-fourths, and on about one-third in Scotland instead of one-half as under the former Act of 1806. From that time till 1853 but little alteration was made in the law. In 1853 Mr. Gladstone introduced an Act by which the tax was re-imposed for a period of seven years, with various alterations and modifications. By this Act the original rate of duty of 7*d.* in the pound was continued for two years, 6*d.* in the pound was imposed for the next two years, and 5*d.* for the remaining period of three years, ending 5th April, 1860, when it was intended to cease altogether, and the duties under Schedule (B.) were proportioned accordingly. The total exemption accorded to incomes under

150*l.* was repealed, and limited to incomes under 100*l.* Incomes amounting to 100*l.* and not amounting to 150*l.* were not subjected to the full amount of tax payable on property and profits generally. The rate of duty on such incomes was fixed at 5*d.* in the pound annually for the whole period of seven years. The additional amount thus brought into charge on incomes from 100*l.* to 150*l.* was in Great Britain 14,467,300*l.*, which at 5*d.* in the pound produced a revenue of 301,320*l.* Under this Act the income tax was for the first time extended to Ireland. The profits of farmers in Ireland were estimated at the same rate as those in Scotland; that is to say, at about one-third of the annual value.

On the declaration of war with Russia it was found necessary to double the income tax from the 5th April, 1854; and a further increase was afterwards imposed by the Act 18 Vict. c. 20, from the 5th April, 1855, of 2*d.* in the pound on incomes of 150*l.* a year or upwards, and of 1½*d.* in the pound on incomes amounting to 100*l.* and not to 150*l.* a year, making 1*s.* 4*d.* in the former case, and 11½*d.* in the latter. This is the highest point to which the tax has ever been raised since its re-imposition in 1842. The Act which granted the duty of 1*s.* 4*d.* in the pound declared that it should continue in force until the 6th April after the expiration of one year from the ratification of the treaty of peace. As this did not take place until the financial year 1856, the Act did not expire until the 5th April, 1858. In 1857, however, the tax was reduced to 7*d.* in the pound. The Russian war upset the calculations that had been made in 1853 as to the cessation of the income tax in 1860. Instead of being abolished in that year it was charged at the rate of 10*d.* In 1863 an important alteration was made in favour of the class of incomes termed by Mr. Gladstone "minor incomes," which were previously exempted when under 100*l.* a year, and were taxed at less than the full rate when between 100*l.* and 150*l.*

The total exemption of incomes under 100*l.* a year

was continued, but, in place of the lower rate on incomes between 100*l.* and 150*l.*, an abatement of 60*l.* was allowed in assessing all incomes of 100*l.* and under 200*l.* a year.

In laying his proposal before the House of Commons Mr. Gladstone stated that in his opinion "the sore place, above and beyond all others, in the working of the income tax is at the point where incomes range from 100*l.* to 200*l.* per annum," and he expressed his conviction that the effect of his plan, if adopted, would be "to mitigate in a remarkable degree the difficulties which are now felt in the application of the tax to the lower incomes, especially at the two critical points of 100*l.* and 150*l.* a year."

The allowance relieved from tax in the year 1863-64 income amounting to about 10,000,000*l.*, and in the following year to upwards of 12,000,000*l.*, and it is believed that the produce of the tax was thus reduced by about 75,000*l.* per penny.

In 1872 Mr. Lowe increased the abatement granted to the smaller incomes, and allowed 80*l.* to be deducted from all incomes between 100*l.* and 300*l.* By so doing he afforded relief in the course of the two years following to nearly 130,000 persons, while the amount of income on which abatements could be granted was increased in the same time from about 18,000,000*l.* to 34,000,000*l.*, and it is estimated that the produce of the tax was reduced by about 50,000*l.* per penny.

The year 1874 is memorable in the history of the income tax, both on account of Mr. Gladstone's offer to repeal it altogether, and also from the fact that after the change of Government which took place in that year the rate of the tax was reduced by Sir Stafford Northcote to 2*d.*, the lowest point which it has ever reached.

In 1876 Sir Stafford Northcote again extended the system of exemptions and abatements. The limit of total exemption was raised from 100*l.* to 150*l.*, while an abatement of 120*l.* was allowed on all incomes between

150*l.* and 400*l.* per annum, instead of the existing allowance of 80*l.* on incomes under 300*l.* Inasmuch as we have no means of ascertaining the numbers of persons who are totally exempt from income tax, it is impossible to state the effect of these measures separately.

Sir Stafford Northcote estimated the combined loss at 130,000*l.* per penny, but it is now believed that the loss, by raising the limit of total exemption from 100*l.* to 150*l.*, did not much exceed 60,000*l.* per penny.

Upon this assumption the total effect of the two reductions must have been much less than estimated, inasmuch as the claims for abatement on incomes under 400*l.* in 1876-77 was only 156,000*l.* per penny, against 163,000*l.* per penny claimed on incomes under 300*l.* in 1875-76; the reason being, of course, that the exemption of incomes under 150*l.* reduced the claims for abatement on incomes under 400*l.* Altogether, we are inclined to put the net loss at from 50,000*l.* to 60,000*l.* per penny. This is the last change we need notice in the history of the income tax, and we may now turn to a description of the tax itself and of its different schedules. (As to further alterations, see the Finance Acts, 1894 and 1898.)

The Assessment and Collection of the Income Tax.

The assessment and collection of the income tax is entrusted mainly to local Commissioners, who are known as the General or District Commissioners of Taxes. The assessment and collection of the income tax.

These Commissioners are appointed by the Land Tax Commissioners out of their own body, and are independent of the Government. Page 1.

The qualification of a General Commissioner is fixed, with some exceptions, at an annual income of 200*l.* from real or personal estate. Page 6.

The General Commissioners appoint Additional Commissioners, whose qualification is one-half that of the General Commissioners. Page 11.

None of these Commissioners receive any emolument
Page 22. in respect of the valuable services they render, but they are entitled to exemption from all parochial offices, and from serving on juries.

The powers of the General Commissioners are, as their name implies, of a general character. In the district for which they act they appoint the necessary local officers, they sign and allow all income tax assessments, and
Page 42. they hear appeals. It is, of course, provided that no Commissioners shall hear any appeals against assess-
Page 45. ments they have themselves made, or in which they are personally interested.

Page 284, &c. The powers of the Additional Commissioners are limited to the examination of the returns and the making of the assessments under Schedule (D.).

A General Commissioner may, on an emergency, act as an Additional Commissioner.

There are two other bodies of Commissioners employed in the assessment of the income tax, viz., the Special Commissioners and the Commissioners for public offices. Of the latter it is unnecessary to speak at length, as their duties are, for the most part, of a routine character, and consist of assessing the salaries of persons employed under the Government or in any public capacity.

The former are appointed by the Crown, and their most important functions are the making of assessments
Ps. 191, 295. under Schedule (C.), and of assessments under Schedule (D.) in any case where the taxpayer may elect to be assessed by them instead of by the local Commis-
Page 132. sioners of taxes, the assessing of railway companies, and
Ps. 17, 254. of dividends payable in this country out of foreign and colonial revenues, or on the stocks, funds, or shares of
Page 294. foreign and colonial companies. Also the hearing of appeals against the assessments made by themselves and those made by the local Commissioners under Schedule (D.) where the taxpayer requires it, as he may do if he appeals when he first receives notice of the assessment. It must, however, be pointed out that appeals

made at the end of the year on the ground of the actual profits falling short of the amounts assessed must be heard by the body of Commissioners which fixed the original assessment.

The Special Commissioners are paid by salary. Page 16.

The local officers appointed by the General or District Commissioners are:

1st. The clerk to the Commissioners.
2nd. Assessors.
3rd. Parochial collectors.

The clerk, as his title implies, has to perform all the clerical duties in connection with the proceedings of the District Commissioners of Taxes. He convenes and attends all their meetings, keeping minutes of the transactions. He summons before the Commissioners persons nominated as assessors of taxes, and takes care that such persons receive the official forms in blank and books of instructions necessary for the preparation of the returns and assessments. After the Additional Commissioners and the assessors have completed and certified the assessments and have delivered them to the General Commissioners, and they have approved them, it devolves upon the clerk to compute the duty payable on each charge, to give notices of charge, speaking generally, to the persons assessed, and to cast and total the assessment books, delivering to the collector of inland revenue an account of the total sums payable by each parish, and the names and addresses of the parochial collectors of taxes. Clerk. Page 63.

The clerk, who is usually a solicitor, is the legal adviser of the Commissioners, and it is his duty to prepare any case demanded for the opinion of the High Court of Justice by appellants or by the surveyor of taxes on behalf of the Crown, who may be dissatisfied with the decision of the Commissioners on any point of law.

Clerks to Commissioners are paid by poundage on the assessments. (This is now altered, see p. 10.)

Assessors. Page 54, &c.

The assessor for each parish having, as we have seen, received the official forms of returns and assessments in blank, is charged with the duty of delivering the forms of returns at the dwelling-house of the inhabitants, first having inserted in such forms the names of the persons in question.

Page 54.

The persons thus served with returns are required to fill them up and deliver them to the assessor within a period of twenty-one days.

As regards Schedules (A.) and (B.), as a general rule, the assessors have no difficulty in obtaining returns from the occupiers of the rent or value of the land or premises occupied. On receipt of the returns of rent or value the assessor is required to enter the particulars under the

Ps. 68, 168.

appropriate headings in the assessment form. If the assessor be dissatisfied with the returns in any case, or no returns have been made to him, he is required to make his own estimates of the annual value of the properties, either by comparison with the poor rate or

Page 176.

otherwise. The returns and assessment forms are delivered by him to the District Commissioners.

Page 56.

As regards Schedule (D.) it is necessary to mention that returns may be delivered by the persons making the same, either to the assessor or at the office of the clerk to the Commissioners.

The Schedule (D.) returns are required by the in-

Page 284.

struction on the form to be sent in "under cover and

Page 68.

sealed." Where persons served with return forms have failed to fill them up and send them in, the assessor has to make an estimate of the profits which, according to the best of his judgment and information, ought to have been returned for assessment by the persons in default.

Ps. 68, 284.

The returns and the assessors' estimates under Schedule (D.), which are also delivered to the District Commissioners, are afterwards referred to and considered by the Additional Commissioners of Income Tax, whose functions, as has been already shown, exclusively relate to Schedule (D.).

Under Schedule (E.) the assessor's duties are so similar to his duties under Schedule (D.) that it is not necessary to describe them in detail. Page 68.

If the General Commissioners are satisfied that the assessments delivered to them are made in accordance with the provisions of the Act of Parliament they accept the same, subject to examination by the surveyor of taxes, who is empowered to rectify any errors which he may discover therein. If, after examination by the surveyor, the Commissioners are satisfied that the assessments are "made truly and without fraud, and so as to charge the properties and persons contained therein with the full duty which ought to be charged," they sign and allow them. Page 69. Page 72.

Notices of charge are given to the taxpayers in due course to enable those who desire to do so to appeal against their assessments. Ps. 179, 287.

Assessors are appointed annually, and are paid by poundage. (This is now altered, see p. 27.) The office is one of a compulsory nature, and anyone appointed to it is obliged to perform its duties. In practice, however, no difficulty is found in obtaining assessors who are quite willing to serve. Ps. 24, 27. Page 26.

By a special Act of Parliament our own surveyors of taxes are the assessors in the metropolis, so far as the assessments under Schedules (A.) and (B.) (and inhabited house duty) are concerned. Page 25.

Parochial collectors are also in most cases appointed annually by the District Commissioners, but if the appointments be not made on or before the 31st of May in any year, the appointment for that and every subsequent year vests in this Board. The number of appointments which have in this way devolved upon us is not inconsiderable, and naturally increases from year to year. Collectors. Page 29. Page 31.

The office of parochial collector is not now compulsory, though it was so until a few years ago, and it is open to any person to decline the appointment within fourteen days of his nomination thereto. Page 30.

Page 31. We are authorized to require strict security to be given by any parochial collector appointed by the District Commissioners, and with regard to parochial collectors appointed by ourselves, it is our practice to take security, unless the amount to be collected is trifling. The functions of a parochial collector are to obtain the payment of the tax from the persons by whom it is payable, and
Page 90. in cases of non-payment to enforce the law. He is supplied by the Commissioners with copies of the assessments in their completed state, and with a warrant to enforce payment of the amounts included therein, and
Page 92. by the surveyor with forms of receipts which he gives when the money is paid.

In cases of difficulty he is guided by the advice of the clerk to the Commissioners as to the steps he should take.

Page 90. The tax in respect of each financial year ending on the 5th of April is due on or before the 1st of the preceding January.

Page 92. The first step taken by the parochial collector is to make a personal demand at the residence or place of business of the tax payer. If the tax be not then paid, he leaves a notice showing the sum due, and the time and place at which it can be paid; but he is not bound to make any further application for it.

Page 102. The parochial collectors pay over or transmit the money they receive to the collectors of inland revenue.

The collectors of inland revenue receive from the clerk to the Commissioners a certificate showing the amount of duty charged in each parish in his division, and for this sum the parochial collector must account. If he fail to do so, the collector of inland revenue returns the amount
Page 120. unaccounted for in a certificate, and the parochial collector is liable to process for a penalty of 50*l.*, and of 5*l.* per cent. on the amount named in the certificate.

Ps. 103—105. The parochial collector accounts for the sum uncollected by delivering to the collector of inland revenue two schedules, verified on oath, one showing the names

of persons from whom payment has not been obtained, although demanded, and the other the names of those from whom it cannot be procured in consequence of their bankruptcy or removal. This schedule also contains a statement of any sums to be discharged from assessment by reason of relief granted on appeal, and of houses in respect of which the duty is not payable on account of their being uninhabited.

As a check upon the parochial collector, he is required, Page 118. under a penalty of 10*l.* for every offence, to give receipts Page 109. for all duties paid to him on forms provided by us, and to insert in the counterfoil of the receipt the name of the taxpayer, the amount of the payment, and the date when paid.

Parochial collectors are paid by poundage. (This is now altered, see page 34.)

The same person may fill the two offices of assessor and parochial collector.

The next class of officers to whom we must allude are the inspectors and surveyors of taxes, who form part of our establishment. Surveyors and inspectors.

Surveyors of taxes are located in the most important towns throughout the United Kingdom.

The inspectors, who are appointed from the ranks of the surveyors, are stationed at the head offices in London, Edinburgh, and Dublin, and are employed in the general superintendence of the business relating to taxes.

The powers of the inspectors and surveyors were, for the most part, given to them by an Act passed in 1810, now embodied in the Taxes Management Act of 1880, which authorizes them, *inter alia*, to examine the returns Page 68. and assessments both before and after they are signed and allowed by the District Commissioners.

It was originally intended that the mode of assessment and collection should be the same in Scotland as in England, but it was found that in Scotland the system of local assessors did not answer. The poundage was so small that few cared to undertake the office, and, in

fact, local assessors hardly ever acted. It, therefore,
Page 25. became necessary to pass an Act of Parliament (45 Geo. III. c. 95) for the purpose of giving the surveyor of taxes the power of making assessments under Schedules (A.), (B.), and (E.).

Page 284. The assessments under Schedule (D.) are made by the Additional Commissioners.

Ireland. In Ireland the system of assessment and collection is quite different to that in force in England and Scotland.

There are no District Commissioners and no assessors,
Ps. 351 *et seq.* but the assessments are all made by the Special Commissioners, who are assisted by the local knowledge of the surveyors of taxes.

Page 351. Appeals are heard in the first instance by the Special Commissioners, but they can be re-heard by various local authorities, such as the assistant barrister for the county, the recorder, and, in the county of Dublin, by the chairman of the sessions of the peace.

Parochial collectors in Ireland are appointed for the
Page 352. collection of the tax under Schedules (A.) and (B.) by the Special Commissioners. Their duties are similar to those discharged by the parochial collectors in England. The duties under Schedules (D.) and (E.) are paid direct to the collectors of inland revenue.

We now come to a different subject.

Allowances, &c. There are many cases in which money is paid to the revenue, but which is ultimately refunded to the persons charged on their proving their title to repayment.

A great number of repayments have to be made in connection with charities.

Under Schedule (A.) the occupiers of properties owned by charities which are exempt from the income tax, are charged in the same manner as occupiers of other properties, and in the first instance pay the tax and deduct
Page 162. the amount so paid from their rents. Repayment is then applied for by the trustees of the charities, who in order to obtain it must satisfy the Special Commissioners

of the justice of their claims. Where charities have satisfactorily proved once for all their claims to exemption, the process of payment and repayment becomes unnecessary, as the duty is subsequently discharged from assessment, but repayments are made amounting to nearly 50,000*l.* annually in cases where no permanent claim to exemption has been established.

Under Schedules (C.) and (D.) again there are many applications for repayment on the part of charities in cases where the tax is paid by deduction from dividends and interest. Pp. 199, 275.

In a similar manner all persons who are entitled to exemption or abatement on the ground of their incomes being under 150*l.*, or 400*l.* (now 160*l.* and 700*l.*) respectively, must apply for repayment in cases where the tax has been paid on their behalf by deduction from the sources of their incomes. Page 330 *et seq.*

There are also many other cases where money has to be returned. The allowance which is made for life insurance premiums is often not claimed till after the tax has been paid, while many persons establish claims to return of duty by appeal at the end of the year for which they have been assessed, and have paid the tax. In fact, we find that altogether no fewer than 86,620 claims for repayment were admitted in the year 1882—3. Page 278.

(The Finance Act, 1907, has started the important principle of a reduction of the tax for earned incomes where the total income does not exceed 2,000*l.*)

We now proceed to consider each separate schedule of the income tax in detail.

Schedule (A.). Schedule (A.).

The tax under Schedule (A.) is charged upon all "lands, tenements, hereditaments, or heritages in respect of the property thereof." Page 125.

Under this schedule the owner of lands or houses is taxed, whether they are or are not in his own occupation.

Page 165. In England the tax under Schedule (A.) (with the exception of that on houses under 10*l.* in value, which is assessed on the landlord) is obtained from the occupier,
Page 146. who, if not the owner, recovers from the latter the tax he has paid for him under Schedule (A.) by deducting it from his rent.

In Scotland the tax under Schedule (A.) is usually
Page 348. paid by the owner as a matter of convenience, but in Ireland it is by law chargeable on him.

All real property is liable to income tax under Schedule (A.), but the following exceptions are made either by law or concession in favour of—

Page 319. 1st. Crown property, such as public offices, law courts and prisons.

Page 158. 2nd. Certain properties belonging to charitable or educational bodies, such as hospitals, public schools, public buildings belonging to colleges and hall in the Universities, almshouses, public lunatic asylums, &c.

3rd. Public parks or recreation grounds. (Any profit made from them is charged under Schedule (D.).)

Page 131. 4th. Certain properties being the realty of railways, canals, quarries, mines, &c., from which no income or benefit is derived beyond the general profits of the concern to which they belong.

Page 132. These concerns (railways, &c.) are, however, chargeable on their profits under the rules of Schedule (D.).

Lands, whether cultivated or uncultivated, and tenements are charged according to their gross annual value.

Page 174. In the case of unoccupied houses, owners can obtain relief from the payment of duty.

Page 174. In the case of land, however, whether occupied or not, payment of the tax is required; but during the last few years, owing to agricultural depression, this rule has
Page 348. been modified. The income tax in Ireland has been collected only on the actual amounts of the rents received, and in England and Scotland, when rents have

been abated, a corresponding deduction has been made in the tax, while, in the case of farms for which no tenants have been found, and which have been wholly unproductive, the District Commissioners have been permitted to grant total relief.

In addition to lands and tenements, some other classes of property are chargeable under Schedule (A.), such as profits derived from manors and certain royalties. Page 129.

In England new assessments under Schedule (A.) are made once in three years.

When a new assessment is to be made the assessor is supplied with copies of the poor rate assessments, from which he can see the amount at which each property is rated to the poor.

In the metropolis the gross value contained in the valuation list in force is the value upon which the income tax is charged. (Now altered to the nett value by the Finance Act, 1894 (57 & 58 Vict. c. 30), s. 15.) Page 345.

It is the duty of each occupier elsewhere than in the metropolis, to render a return to the assessor of the rent or value of the lands, tenements, &c. in his occupation. Page 163.

The assessor is thus enabled, by comparison with the poor rate, to form an opinion as to the value of each property, and he frames his assessment accordingly. The assessment, when duly prepared, is sent, as we have seen, to the District Commissioners, but before it is signed and allowed by them, it is examined by the surveyor of taxes, who compares it with the poor rate and with previous income tax assessments, and amends it where necessary. Page 178.

In this way accurate assessments are obtained, but during the second and third years of their currency they are subject to a decrease if the property diminishes in value, and in certain cases to an increase, if it is found that the original assessments were insufficient. Page 185.

In Scotland and in Ireland the assessments under Schedule (A.) are also made triennially, but in Scotland the annual value of property is based on the valuation Page 128.

Page 348. roll, while in Ireland it is made by law to depend simply on the existing valuation for the poor rate.

The only exception to this rule in Ireland occurs in cases where the rack-rent of a property is less than the
Page 348. poor law valuation. In such cases the rent is taken to be the annual value, and the tax is charged upon it accordingly. The tenant is chargeable on the difference.

Page 179. As soon as the assessments have been completed, notices of charge are issued in order to enable any tax-payer to appeal if he thinks proper to do so. His appeal must be, in England and Scotland, to the District Com-
Page 351. missioners, and in Ireland, in the first instance, to the Special Commissioners.

The gross amount of property assessed under Schedule (A.) in the year 1883-84 was 193,344,924*l.* This was reduced to 175,555,583*l.* by deductions, exemptions, and abatements, chiefly in respect of the small incomes under 150*l.* or 400*l.* per annum.

Schedule (B.). ## Schedule (B.).

Page 163. The tax under Schedule (B.) is chargeable in respect of the occupation of all lands.

It is in effect a charge on the profits made by the occupier from the exercise of his capital and skill in husbandry, just as under Schedule (D.) a charge is made on the trader in respect of the profits derived by him from the exercise of his capital and skill in trade.

The rules in the Income Tax Acts for "assessing and
Page 164. charging the properties under Schedule (B.)" direct that the duties under that schedule "shall be charged in addition to the duties to be charged under Schedule (A.) on all lands, &c. (with certain exceptions) "on the full amount of the annual value thereof, estimated as by this Act is directed."

Page 123. The "annual value" for purposes of the income tax may, in popular language, be described as the best rent that can be obtained when the landlord and tenant respectively bear their own burdens.

An occupier's profits in England are supposed to represent half of the annual value of the property he occupies, and in Scotland and Ireland about one-third of such value. (Now altered to one-third for England; see the Finance Act, 1896.)

The English occupier, however, receives an abatement of one-eighth of the amount of duty charged upon him under Schedule (B.). (This is now abolished; see the Finance Act, 1896.)

Under the Income Tax Act of 1803, occupiers were charged on three-fourths of the annual value in England, and on one-half of the annual value in Scotland; but in 1842 the present bases were substituted.

In 1853, when the income tax was extended to Ireland, that country was placed on the same footing as Scotland.

It was, doubtless, owing to the fact in 1803 farmers did not as a rule keep trade accounts, that this system was adopted of charging them by calculating their profits as bearing a certain proportion to the annual value of their holdings.

When the income tax was re-imposed in 1842 by Sir Robert Peel, the same system was followed. A suggestion was made by Lord Howick that it would be better to charge farmers under Schedule (D.), but it appears not to have met with any considerable support.

As a reason for the reduction of the bases of charge under Schedule (B.) from the amounts at which they had been fixed under the former income tax, Sir Robert Peel expressed "his perfect conviction that the rent of the farmer had been raised in proportion to his profits," and stated that the reduction was "consistent with justice."

The considerable reduction made, in 1842, in the duties on the importation of foreign corn, may also have influenced the Government of the day in lowering the bases of income tax charge on the farmer.

It will thus appear that the tax under Schedule (B.) is levied in a rough-and-ready fashion, but it is most important to remember that in England, Scotland, and

Page 184. Ireland alike occupiers can, if they please, appeal at the end of any year, and pay income tax only on the profits they have actually made, just as a trader can appeal under Schedule (D.). (Now altered as to Schedule (D.) by the Finance Act, 1907.)

This right of appeal was granted in 1851 to farmers gaining their livelihood principally by husbandry, and it has since been extended to all persons occupying lands for the purposes of husbandry only, whether they gain their principal livelihood thereby or not.

The assessments under Schedule (B.) are made in the same manner as those under Schedule (A.), and do not require a separate description. New assessments are made every three years. The rule as to appeals at the time against assessments is the same as that under Schedule (A.). The special right of appeal at the end of the year, to which we have just referred, is a separate matter. The gross amount of property assessed under Schedule (B.) in the year 1883-84 was 65,514,180*l.* This was reduced very largely, however, by the deductions and abatements allowed on small incomes, and the net assessment only amounted to 33,460,049*l.*

Tithe rent-charges.

Tithe Rentcharges.

It will now be desirable to notice the question of tithes, as affecting the assessments under Schedules (A.) and (B.), as some misapprehension seems to exist in regard to the subject. Tithes were originally paid in kind to the tithe owner by the occupier out of the produce of the land in his occupation.

The Act 6 & 7 Will. IV. c. 71, provided for the commutation of these tithes into tithe rentcharges, for which the landowner, instead of the occupier, was practically made responsible, though the rentcharges are still paid in many cases by the occupier under arrangement with the owner.

Under Schedule (A.) of the Income Tax Act of 1842, the tax in respect of tithe rentcharges was paid, in the first instance, either by the landowner or the occupier, and subsequently deducted from the rentcharge paid by them to the tithe owner. Page 143.

By the Income Tax Act of 1853, the owner of a tithe rentcharge was permitted to claim to be assessed by direct charge on himself instead of indirectly.

Where he avails himself of this option, he pays the tax on his rentcharge direct to the tax collector, but where he leaves the tithes to be charged in detail in the Schedule (A.) assessment, the owners or occupiers charged with the tax under that Schedule are, of course, entitled, on paying the tithe rentcharge, to deduct the income tax applicable to the rentcharge. Ps. 146, 151.

In Scotland and Ireland, in which latter country the Land Commission usually stands in the place of the tithe owner, the tax on rentcharges is almost always paid indirectly.

The following examples may be of service in illustrating the various methods in which tithe rentcharges are paid and charged with income tax under Schedule (A.). We assume the landlord to be the owner of 500 acres of land of an annual value of 500*l.*, on which there is a tithe rentcharge of 50*l.* per annum due to the tithe owner. The income tax on this sum of 50*l.* must, under any circumstances, be finally borne by the tithe owner, and the tax on the remaining 450*l.* by the landlord.

1. Suppose that the landlord keeps his land in his own occupation, and that the tithe owner makes no return, and does not therefore pay the tax directly. The landlord is assessed on 500*l.* per annum, and pays tax accordingly, but when he pays the 50*l.* to the tithe owner he deducts the income tax from that amount. Ps. 142, 151.

2. Suppose that the landlord keeps the land in his own occupation, but that the tithe owner makes a return of the tithe rentcharge, and pays the tax on the amount Page 143.

himself, then the landlord is only assessed on 450*l.* under Schedule (A.).

Ps. 143, 146, 151. 3. Suppose that the landlord lets the land to a tenant at a rack-rent of 500*l.*, and continues himself to pay the 50*l.* to the tithe owner, and that the tithe owner does not make any return, then the tenant pays the whole tax on 500*l.*, but deducts it from the rent he pays to the landlord, while the landlord again deducts the tax from the 50*l.* which he pays to the tithe owner as rentcharge.

Ps. 142, 146. 4. Suppose that the landlord lets the land to the tenant at a rack-rent of 500*l.*, and continues himself to pay the 50*l.* to the tithe owner, but that the tithe owner does make a return and pays the tax on his 50*l.* direct, then the tenant would be assessed and would pay tax on 450*l.* only, and would deduct from his rent of 500*l.* the amount only of the tax he actually paid, while the landlord would pay the 50*l.* to the tithe owner without any deduction.

Ps. 143, 146. 5. Suppose that the landlord lets the land to the tenant at a rent of 450*l.* only, on condition that the tenant pays the tithe owner the 50*l.*, and the tithe owner makes no return, then the tenant pays the tax on the whole 500*l.*, but deducts the tax from the landlord in respect of the rent of 450*l.*, and from the tithe owner in respect of the 50*l.* tithe rentcharge. (Such a condition is now void, see the Tithe Act, 1891, s. 1.)

Ps. 143, 146. 6. Suppose, lastly, that the landlord lets the land to the tenant at a rent of 450*l.* only, on condition that the tenant pays the tithe owner the 50*l.*, and that the tithe owner does make a return and pays the tax direct, then the tenant is assessed and pays the tax on 450*l.* only, deducting it again in respect of his rent to the landlord, but he pays the 50*l.* to the tithe owner without any deduction. (Such a condition is now void, see the Tithe Act, 1891, s. 1.)

We have thus far dealt with tithe rentcharges under Schedule (A.) only; let us now consider them in connection with Schedule (B.).

Schedule (B.) is, as we have said, a tax on the occupier's profits. It is clear that tithe rentcharges cannot possibly form part of any farmer's profits, and, as a matter of fact, they do not, under any circumstances, increase the tax borne by him under Schedule (B.). Nevertheless, it appears to some persons that they have this effect, and we must explain how the misapprehension arises.

If we look back at the sixth case we have mentioned, in which the landlord lets the land to the tenant for 450*l.* only, on condition that the tenant pays the tithe owner the 50*l.* tithe rentcharge, and in which the tithe owner makes a return and pays the tax on the 50*l.* himself, we see that the tenant has to pay the tax under Schedule (A.) on 450*l.* only, which he subsequently recovers from the landlord. But, under Schedule (B.), the tenant will be charged on 500*l.* We believe it is this difference in the amount of the assessments under the two schedules which has led to the erroneous idea that Schedule (B.) can be affected by the tithe rentcharge. This is certainly not the case.

If the tenant pays the tithe rentcharge he does so in consideration of a reduced rent which does not represent the full value of the lands. The full value in this instance being 500*l.*, the tenant is charged on that amount.

In some of the cases we have quoted, the tenant, under Schedule (A.), has to pay the tax in the first place on the whole 500*l.*, in others on 450*l.* only, always getting back again from the landlord and the tithe owner the whole amount he has so paid, but in all the cases his assessment under Schedule (B.) must be based on 500*l.*, which is the annual value of the property in his occupation, and the standard by which his profits must be estimated.

We might, by way of further illustration, revert to the fifth example before quoted, and assume the tithe rentcharge to be 100*l.* instead of 50*l.* a year; then the

rent payable to the landlord would be proportionately less, viz., 400*l.*, instead of 450*l.* The assessment would be the same, and the tenant would in the aggregate deduct the same amount of income tax under Schedule (A.), but in different proportions, viz., from the landlord on 400*l.* instead of on 450*l.*; and from the tithe owner on 100*l.* instead of on 50*l.*; he himself being charged with the same amount of tax under Schedule (B.).

(The above must be read subject to the provision in the Tithe Act, 1891, s. 1, that tithe rentcharge must be paid by the owner. By sect. 8 of the same Act the owner of the tithe rentcharge is liable to lose the excess of his tithe rentcharge over two-thirds of the annual value of the lands as ascertained and entered in the assessment for the purpose of Schedule (B.). Should the assessment be reduced without notice to the owner he may appeal against such assessment (*R.* v. *Barnstaple Commissioners*, L. R. (1895) 2 Q. B. 123).

Schedule (C.).

Schedule (C.).

Page 187.

Under this schedule are charged "all profits arising from interest, annuities, dividends, and shares of annuities payable to any person, body politic or corporate, company or society, whether corporate or not corporate, out of any public revenue."

The term public revenue means not only the revenue of the United Kingdom, but also that of any foreign or colonial government.

The great distinction between the mode of assessment under Schedule (C.) and that applicable to the other schedules of the Income Tax Acts is, that returns are not called for from the taxpayer under this schedule.

In the case of interest paid out of the revenue of the United Kingdom, with certain small exceptions, the

Page 191.

assessment is made by the directors of the Bank of England, and on payment of the interest to the investors

the tax is deducted by the Bank and subsequently paid into the Exchequer.

The same rule applies to annuities paid by the National Debt Commissioners.

With regard to payments to persons in this country of interest, &c. out of foreign and colonial revenues, the assessments are made by the Special Commissioners on the agents entrusted with such payments, and the agents are responsible for the tax which they deduct from the dividends they distribute to the stockholders. Page 194.

The stocks of friendly societies, industrial, and provident societies, in certain cases (trades unions), savings banks and charities, are exempt from the tax, and also stock which is devoted under trust to the repairs of any cathedral, college, church, chapel, or other building solely for the purpose of divine worship. Page 188, n.

Stocks belonging to his Majesty or to any accredited minister of any foreign state, resident in Great Britain, and stocks standing in the name of the Lords of the Treasury and the Commissioners for the Reduction of the National Debt are also exempt by law. Page 188.

The amount of income assessed under Schedule (C.) in 1883-84 was 40,580,574*l.*

Schedule (D.)

Schedule (D.) is a charge upon "profits arising from professions, trades, employments, or vocations," and also upon all "interest of money, annuities and other annual profits and gains not otherwise charged with income tax." Page 200.

Schedule (D.) is essentially a tax on trade and professional profits.

All persons chargeable under Schedule (D.) are required, as we have seen, to make returns for assessment either to the District Commissioners or to the Special Commissioners. If the return is made to the District Ps. 55, 295.

Page 281. Commissioners, it must be made in the parish or place where the trade, &c. is carried on; but in the case of manufacturers of goods, the return for the assessment is to be made at the place of manufacture, although the sales of such goods may be elsewhere.

The classes of profits chargeable under Schedule (D.) are extremely numerous and vary greatly in character, and different averages for estimating the duties payable have consequently been adopted. In some cases, the assessment is made to depend on the actual amount received within the year, while in other cases the profits of the previous year are taken as the guide. This is the practice with railways, quarries, ironworks, &c. where
Page 131. the profits are calculated on the amount received in the year immediately preceding that in which the assessment is made.

Page 131. In the case of mines, the average profits for five years are taken as the basis of the assessment.

Page 214. But in the case of ordinary trades and professions the returns for assessment are based on the average profits for the three preceding years; but if the business has commenced within three years, then on the average profits from the period of commencing the same, or, if it has only commenced within the year of actual assessment, then on the presumed profits for the year. (There is now a right of appeal at the end of the year of assessment to be assessed on the actual profits where the profits have fallen short of the assessment. See the Finance Act, 1907, s. 23 (2).)

In estimating such profits and gains for assessment to income tax, under Schedule (D.), certain deductions from the gross profits are allowed, of which the following are the most important:—

Page 221. 1st. For repairs of premises occupied for the purposes of trade or manufacture, and for supply or repairs of
Page 221. implements, utensils, or articles employed. 2nd. For bad debts, or such part thereof as shall be proved to the
Page 226. satisfaction of the Commissioners to be such. 3rd. For

the sum representing diminished value by reason of wear and tear of machinery or plant.

Assessments under Schedule (D.) are made annually, and any person neglecting to make a return is liable to a penalty of 50*l.*, or to be surcharged.

Should a person be dissatisfied with the assessment made upon him under Schedule (D.), it is open to him to appeal at once, either to the District or to the Special Commissioners. Ps. 287, 294.

Again, if at the end of the year of assessment he finds that he has not realized the amount of profits charged, it is open to him to make a further appeal, but in this case the appeal must be to the Commissioners by whom the assessment was made. (This is now abolished, see the Finance Act, 1907, s. 24 (1).)

In 1883-84, the gross amount of profits assessed under Schedule (D.) was 291,336,955*l.*

This was reduced to 252,022,971*l.* by deductions, exemptions, and abatements, mainly in respect of the small incomes under 150*l.* or 400*l.*

Schedule (E.). Schedule (E.).

Assessments under Schedule (E.) are made in respect of every public office or employment of profit, and upon every annuity, pension, or stipend payable by his Majesty, or out of the public revenue of the United Kingdom (except annuities charged to the duties under Schedule (C.)). Page 304.

Rather less than one-half of the tax under this schedule is charged on official salaries and pensions, including the Army and Navy.

The other portion is charged on salaries, &c. of clerks and others in mercantile employ, including banks, railway officials, and other concerns.

Assessments under Schedule (E.) in respect of all Government departments, are made by the Commis-

sioners of Income Tax for Public Offices, and the tax is deducted from the actual salaries paid.

In the case of public appointments of a local character, the names of persons liable to assessment are sent by some responsible authority to the district assessors, who then proceed in the ordinary course to get the assessments completed, after which the parochial collectors apply for payment of the duty.

The gross amount of salaries, &c. charged under Schedule (E.) was, in 1883-84, 37,733,566*l.* This was reduced, by deductions, exemptions, and abatements, chiefly in respect of the incomes under 150*l.* and 400*l.*, to 29,510,323*l.*

INCOME TAX ACTS.

Part I.

CREATION OF OFFICIALS.

1. The Appointment of the General Commissioners.

The Income Tax Act, 1842—

5 & 6 Vict. c. 35, s. 4. Commissioners of Land Tax at district meetings to appoint Commissioners for the general purposes of this Act.

4. And whereas it is expedient to appoint Commissioners for the general purposes of this Act from and amongst the persons appointed Commissioners for the execution of an Act passed in the thirty-eighth year of the reign of King George the Third, intituled "An Act for granting an Aid to His Majesty by a Land Tax, to be raised in Great Britain for the Service of the Year One thousand seven hundred and ninety-eight," or from and amongst the persons appointed Commissioners for the execution of the said Act by any subsequent Act of Parliament passed or to be passed, to act in the execution of this Act, so far as relates to the powers hereby vested in such Commissioners; be it enacted, that the several persons appointed or to be appointed Commissioners for putting in execution the said Land Tax Act in the respective parts of the United Kingdom therein mentioned, being respectively qualified to act as Commissioners in the execution of the said Land Tax Act, shall meet within the county, riding, shire, or stewartry, or within each hundred, rape, lathe, or wapentake of the county, riding, shire, or stewartry for which they are or shall be respectively appointed Commissioners of the said Land Tax Act, or within such other division of the said county, riding, shire, or stewartry as the Commissioners of Inland Revenue shall direct, and also within each city, borough, cinque port, liberty, franchise, town, and place for which separate Commissioners have been appointed with exclusive jurisdiction for putting in execution the said Land Tax Act within the same, which meeting shall be convened from time to time by the Commissioners of Inland Revenue, when and as they shall

deem necessary, by notice inserted in the "London Gazette" and "Edinburgh Gazette" for England and Scotland respectively, and shall be held at such time and place as shall be appointed by such notice; and at every such meeting the said Commissioners of the Land Tax Act, or the major part of them then present, shall choose and set down in writing the names of such of the Commissioners appointed as aforesaid who shall respectively be qualified as hereinafter is required (*a*), and who shall be fit and proper to act as Commissioners for the general purposes of this Act in such county, riding, shire, or stewartry aforesaid, and in each and every district within each respective hundred, rape, lathe, wapentake, or other division aforesaid, and within each city, borough, cinque port, liberty, franchise, town, and place aforesaid, observing always in the execution of this Act the same limits which shall have been or may be settled for the districts under the Acts relating to the duties of assessed taxes: and the names of such persons who shall be so chosen shall be set down in the order in which the major part of the Commissioners then present shall judge fit they should respectively be appointed Commissioners in their respective districts; and any seven, or any less number than seven, not being in any case less than three, of the persons so set down, and in the order in which they shall be so set down in such list, shall be Commissioners for the general purposes of this Act, and of the duties granted as aforesaid, and they are hereby required to take upon themselves the execution of this Act, and of the said duties, as such Commissioners for general purposes; and any seven, or any less number than seven, not being in any case less than three, of the persons so set down next in order in the list of names before mentioned, shall be Commissioners to supply vacancies as the same may arise in the manner herein mentioned: Provided always, that if at any such meeting as aforesaid the Commissioners shall not find amongst the Commissioners appointed for executing the said Land Tax Act, and set down in manner aforesaid, the names of seven persons to act and seven others to supply vacancies in each such district, it shall be lawful for them to appoint any persons residing within such district who shall respectively be qualified as hereinafter is required, and who in their judgment shall be fit and proper, to be Commissioners for the general purposes of this Act, until the number of seven in each such list shall be completed, although such persons shall not have been appointed to act as Commissioners in the execution of the said Land Tax Act: Provided also, that if at such meeting the Commissioners shall not find and set down fourteen persons of the descriptions before mentioned to act as Commissioners and to supply vacancies in each such district, it

Manner of choosing Commissioners,

and supplying vacancies.

In want of Land Tax Commissioners, other fit persons residing in the district may be named;

or from adjoining districts.

shall be lawful for them to select such number of persons as shall be requisite from the persons acting as Commissioners for executing the said Land Tax Act in or for any adjoining or neighbouring district of the same county, riding, division, shire, stewartry, city, town, or place, in order that there shall be no failure in the execution of this Act; and the names of such respective persons who shall have been so chosen as aforesaid shall be transmitted to the chief office of Inland Revenue in England and Scotland respectively in the order in which they shall have been set down in such lists: Provided always, that where seven persons, qualified as hereinafter is required, shall be chosen to act as Commissioners for any district as aforesaid, no other person shall interfere as a Commissioner in the execution of this Act so long as such seven persons shall continue to act, except in the cases hereinafter mentioned.

Where seven persons shall be chosen no others to act.

(*a*) See *post*, p. 6.
As to Scotland, see also the Customs and Inland Revenue Act, 1893, s. 7. 56 Vict. c. 7, s. 7.

The Taxes Management Act, 1880— 43 & 44 Vict. c. 19, s. 28.

28. The Board may, if they think fit, authorize the increase of the number of persons to be chosen General Commissioners for any division and of persons to supply vacancies amongst such Commissioners to any number not exceeding fourteen respectively, and such persons shall be appointed and chosen according to the regulations contained in section four of the Income Tax Act, 1842.

The Board (Commissioners of Inland Revenue) may increase the number of General Commissioners.

This section does not apply to Ireland. See the Taxes Management Act, 1880, s. 25. 43 & 44 Vict. c. 19, s. 25.

The Income Tax Act, 1842— 5 & 6 Vict. c. 35, s. 5.

5. Within and for each of the cities and towns hereinafter mentioned (*videlicet*), London, Bristol, Exeter, Kingston-upon-Hull, Newcastle-upon-Tyne, Norwich, Birmingham, Liverpool, Leeds, Manchester, King's Lynn, and Great Yarmouth, it shall be lawful for the persons hereinafter mentioned to choose Commissioners, and persons to supply their vacancies, to act together with the persons to be chosen or appointed as before directed; and that in and for the city of London two Commissioners, and two to supply their vacancies, shall be named by the mayor and aldermen of London out of eight persons, four of whom shall be aldermen, to be returned to them by the common council; two other Commissioners, and two to supply their vacancies, by the Bank of England; one other Commissioner, and one other to supply his vacancy, by each of the companies hereinafter mentioned; (*videlicet*) the governor and directors of the Royal Exchange Assurance Company, the governor and directors of the London Assurance Com-

Within certain cities and towns other Commissioners may be chosen to act with those chosen by the Land Tax Commissioners.

pany, the directors for conducting and managing the affairs of the East and West India Dock Company, and the directors for conducting and managing the London Dock Company, and the St. Katherine Dock Company, respectively, for the time being; and that it shall be lawful for the magistrates and justices of the peace acting in and for the city of Norwich to choose eight persons to be Commissioners, and eight persons to supply their vacancies, not more than four of the said eight Commissioners, and not more than four of the said eight persons to supply their vacancies, to be chosen from out of the said magistrates and justices, and the remaining four Commissioners, and four persons to supply their vacancies, to be chosen from the inhabitants of the said city; and in and for each of the other cities and towns before mentioned it shall be lawful for the magistrates and justices of the peace acting in and for the said cities and towns respectively, together with the justices of the peace acting in and for the county, riding, or division wherein the same respectively are situate, to choose eight persons to be Commissioners, and eight persons to supply their vacancies, as herein is mentioned; and the persons so to be chosen by the Land Tax Commissioners as aforesaid, together with the other persons respectively to be chosen as herein is particularly directed, shall be Commissioners for the purposes of this Act, and to supply their vacancies, as the same may arise, within and for the several districts in which such cities and towns respectively shall be situate, or which shall be formed by such cities and towns respectively, and for such other places which have usually been assessed in the same district with such cities and towns respectively towards the aid by a land tax; and the names of all persons so chosen as last aforesaid shall be returned to the Commissioners of Inland Revenue.

5 & 6 Vict. c. 35, s. 6. Where sufficient Commissioners are not chosen for cities and towns, the Commissioners for the county may be chosen. Power to choose persons duly qualified, although not named Commissioners of Land Tax.

6. Provided always, that in case there shall not be a sufficient number of Commissioners chosen or appointed for general purposes as aforesaid, or to supply vacancies, capable of acting according to the qualification required by this Act for any city, borough, town, or place, then and in every such case any person qualified to act for the county at large, or riding, in which or adjoining which such city, borough, town, or place shall be situate, may be chosen to act as a Commissioner for such city, borough, town, or place: Provided also, that any person residing in any county, riding, division, city, town, or place where a Commissioner shall be wanting, and qualified as hereinafter mentioned, who shall be willing to act as a Commissioner for general purposes as aforesaid, in any district where a Commissioner shall be wanting, may be chosen in manner aforesaid to be such Commissioner, although

such person shall not have been appointed to act in the execution of the said Land Tax Act; anything hereinbefore contained to the contrary notwithstanding.

5 & 6 Vict. c. 35, s. 7. How vacancies among such Commissioners are to be supplied.

7. When any Commissioner for general purposes shall die, or decline to act, or having begun to act shall decline to act any further therein, the remaining Commissioners shall choose one or more of the persons on the list to supply vacancies, who shall be appointed in the place of the Commissioner so refusing or declining to act, or dying, provided the person so to be appointed to supply such vacancy shall have been chosen in the same manner as the person so refusing or declining to act, or dying; and the several Commissioners of Land Tax shall at such their meetings, convened in manner aforesaid (*a*), and the several persons authorized to appoint Commissioners for the several cities and towns aforesaid shall, on notice thereof from the clerk to the acting Commissioners for the same cities and towns respectively, as often as occasion shall require, select and add new names to the persons before chosen to supply vacancies, who shall respectively be Commissioners for general purposes, as and when such vacancies shall happen: Provided always, that if the list for supplying vacancies to be made and renewed as aforesaid shall at any time be defective, so that the due number of Commissioners cannot be supplied therefrom, the same shall be filled up and renewed from time to time by the acting Commissioners for general purposes in the district where such failure shall have happened.

(*a*) See sect. 4, p. 1.

5 & 6 Vict. c. 35, s. 8. Commissioners of Land Tax Act to execute the Act in default of appointing other Commissioners, or on neglect of Commissioners appointed under this Act;

8. If in any district there shall be a neglect in appointing Commissioners for general purposes as hereby is directed, or the Commissioners so appointed shall neglect or refuse to act, or having begun to act shall decline to act further therein, it shall be lawful for the Commissioners appointed to execute the said Land Tax Act, being respectively qualified as directed by this Act, and they and every of them, not in any case exceeding the number of seven, on notice of such neglect and want of appointment, given to their clerk, by any inspector or surveyor of taxes duly authorized to give such notice by the Commissioners of Inland Revenue, shall and they are hereby strictly enjoined and required to take upon themselves forthwith the execution of this Act, and to do and execute all matters and things which Commissioners chosen in pursuance of this Act are hereby required and empowered to do; and if in any district there shall be a want of such last-mentioned Commissioners, the Commissioners of any adjoining district in the

same county, riding, or division, being respectively qualified as directed by this Act, shall, on like notice as aforesaid, execute this Act as such Commissioners, by themselves, or in concurrence with any persons willing to act as Commissioners of the district where this Act shall require to be executed; and if the persons aforesaid to whom such notice shall have been given shall not take upon themselves the execution of this Act, within ten days next after such notice given, or shall not proceed therein with due diligence, then and in every such case it shall be lawful for the Commissioners for special purposes, to be appointed under the authority of this Act, to execute this Act in such district in all matters and things hereby directed to be done by Commissioners for general purposes: Provided always, that where Commissioners willing to act in each district shall not be returned to the Chief Office of Inland Revenue in England and Scotland respectively as aforesaid, then and in such case it shall be lawful for the said Commissioners of Inland Revenue to cause such notices as aforesaid to be given to two or more of the persons on whom the right of executing this Act shall devolve in pursuance of the directions of this Act before mentioned.

and Commissioners for special purposes on neglect of Land Tax Commissioners.

Qualification for the General Commissioners.

10. No person herein required to be qualified in respect of estate shall be capable of acting as a Commissioner for general purposes in the execution of this Act for any district or division of any county at large within England (the county of Monmouth, and the dominion of Wales excepted), or of any of the ridings of the county of York, or of the county or divisions of Lincoln, or in or of any of the several cities and towns of London, Westminster, Bristol, Exeter, Kingston-upon-Hull, Newcastle-upon-Tyne, Norwich, Birmingham, Liverpool, Leeds, Manchester, King's Lynn, and Great Yarmouth, unless such person be seised or possessed of lands, tenements, or hereditaments in Great Britain of the value of two hundred pounds per annum or more, of his own estate, being freehold or copyhold, or leasehold for a term whereof not less than seven years are unexpired, over and above all ground rents, incumbrances, and reservations payable out of the same respectively, or unless such person shall be possessed of personal estate of the value of five thousand pounds, or a personal estate, or an interest therein, producing an annual income of two hundred pounds, or of lands, tenements, or hereditaments, and personal estate, or an interest therein, being together of the annual value of two hundred pounds, estimating in every such

5 & 6 Vict. c. 35, s. 10. Qualification of Commissioners for districts or divisions of counties and for certain cities and towns in England.

case one hundred pounds personal estate as equivalent to four pounds per annum, and an interest from personal estate of four pounds per annum as equivalent to one hundred pounds personal estate, or unless such person be the eldest son of some person who shall be seised or possessed of a like estate of thrice the value required as the qualification of a Commissioner, in right of his own estate, for such county at large, riding, division, or city.

5 & 6 Vict. c. 35, s. 11. Qualification for the county of Monmouth, the counties in Wales, and for the cities, towns, or places, not before mentioned.

11. No person herein required to be qualified in respect of estate shall be capable of acting as a Commissioner for general purposes in execution of this Act in any district or division of the county of Monmouth, or of any county in Wales, or for any city, borough, cinque port, liberty, franchise, town, or place in England or Wales (other than the cities and towns hereinbefore mentioned), unless such person be seised or possessed of an estate of the like nature and of four-fifths of the value required for the estate of a Commissioner acting for a district or division of a county at large in England as aforesaid, or unless such person be the eldest son of some person who shall be seised or possessed of some estate of thrice the value required as the qualification of a Commissioner, in right of his own estate, for the same county, city, borough, cinque port, liberty, franchise, town, or place.

5 & 6 Vict. c. 35, s. 12. Qualification for shires in Scotland.

12. No person hereby required to be qualified in respect of estate shall be capable of acting as a Commissioner for general purposes in execution of this Act for any shire in Scotland unless such person be enfeoft in superiority or property, or possessed as proprietor or life renter, of lands in Scotland to the extent of one hundred and fifty pounds Scots per annum valued rent, or unless such person be possessed of personal estate of the value of five thousand pounds, or of personal estate, or an interest therein, producing an annual income of two hundred pounds sterling, or be enfeoft or possessed as aforesaid of lands and personal estate, or an interest therein, being together of the annual value of two hundred pounds sterling, estimating in every such case one hundred pounds personal estate as equivalent to four pounds per annum, and an interest from personal estate of four pounds per annum, as equivalent to one hundred pounds personal estate, or unless such person be the eldest son of some person who shall be enfeoft or possessed of a like estate of twice the value required as the qualification of a Commissioner, in right of his own estate, for such shire.

5 & 6 Vict. c. 35, s. 13. For cities or boroughs in Scotland.

13. No person herein required to be qualified in respect of estate shall be capable of acting as a Commissioner for general purposes in execution of this Act for any city or borough in Scotland unless such person be enfeoft or possessed of an estate of the like nature and of three-fifths of the value required for the estate of a Commissioner acting for any shire in Scotland, or unless such person be the eldest son of some person enfeoft or possessed of some estate of thrice the value required as the qualification of a Commissioner, in right of his own estate, for the same city or borough.

5 & 6 Vict. c. 35, s. 14. Qualification in lands need not be in the county. Proof of qualification.

14. Provided always, that no estate consisting of lands or tenements, as the qualification of a Commissioner, shall be required to be situate in the county, riding, or division for which any person shall be a Commissioner: Provided also, that the proof of qualification where required shall lie on the person acting in the execution of this Act, in such manner as is by law directed with respect to Commissioners acting in the execution of the said Land Tax Act.

5 & 6 Vict. c. 35, s. 15. Qualification not required for certain officers acting as Commissioners, nor for special Commissioners.

15. Provided also, that nothing herein contained shall be construed to require any qualification of a Commissioner in the district of the palaces of Whitehall and St. James Westminster, for any officer who shall have heretofore acted or may hereafter act as a Commissioner for putting in execution the said Land Tax Act in the said district, other than the possession of their respective offices; nor in any shire in Scotland, for any provost, baillie, dean of guild, treasurer, master of the Merchants Company, or deacon convenor of the trades for the time being of any royal burgh in Scotland, nor any baillie for the time being of any borough of regality or barony of Scotland, nor the factors for the time being on the several forfeited estates annexed to the Crown by an Act passed in the twenty-fifth year of the reign of King George the Second, who shall be respectively appointed Commissioners for executing the said Land Tax Act in any shire in Scotland; nor for any Commissioner for special purposes acting in the execution of any of the powers or provisions of this Act.

43 & 44 Vict. c. 19, s. 27 (2).

The Taxes Management Act, 1880—

27.—(2.) The sheriff depute or substitute of any county or division in Scotland for the time being shall be ex officio and without other qualification a general Commissioner for such county or division.

2. Appointment of Clerks.

The Income Tax Act, 1842—

5 & 6 Vict. c. 35, s. 9. Commissioners may appoint a clerk and assistant.

9. The Commissioners to be appointed for general purposes in manner aforesaid shall appoint a clerk, and if necessary an assistant clerk, for the duties to be assessed by them in each district, who shall execute their office according to the regulations of this Act and the Acts herein respectively mentioned or referred to; and every such clerk and assistant shall act as such, as well in all matters and things to be done by, under, and before the respective Commissioners for general purposes, as by, under, and before the respective additional Commissioners hereinafter mentioned in the respective districts; provided that no more than one clerk's assistant shall be appointed for any district without the approbation of the Commissioners of Inland Revenue, on a statement made to them by the Commissioners for general purposes of the necessity thereof in consideration of the extent or population of the district; and if any clerk or clerk's assistant appointed under the authority of this Act, who shall have taken the oath hereinafter required, shall wilfully obstruct or delay the execution of this Act, or shall negligently conduct or wilfully misconduct himself in the execution of this Act, he shall forfeit the sum of one hundred pounds, and shall be dismissed from the said office, and be rendered incapable of again acting as clerk or clerk's assistant in the execution of this Act or any other Act for granting duties under the management of the Commissioners of Inland Revenue.

Penalty on clerk or assistant for misconduct.

Clerk.

The Taxes Management Act, 1880—

43 & 44 Vict. c. 19, s. 41. Appointment of clerk.

41 (1.) (*a*). At their first meeting in each year to be held in England before the tenth and in Scotland before the thirtieth day of April, the General Commissioners or the major part of them shall elect a fit person to be their clerk, and one other fit person, if the said Commissioners shall deem it necessary, to be his assistant, for all the assessments to be made of the several duties with which the said Commissioners shall be charged within their respective limits for one year, and the person so elected shall by virtue of such election be the sole clerk to such Commissioners for all the said assessments to be made by them for such year, and shall not be removeable from his said office during the year for which he shall be appointed as aforesaid, except for just cause, and at a meeting of the Commissioners for that purpose duly summoned by notice in writing signed by such Commissioners, or in Scotland by their

respective conveners, and served on each of the Commissioners who shall have qualified in and for the division, and by the major part of the Commissioners present at such meeting.

Delay of clerk or assistant.

(3.) If a clerk or clerk's assistant wilfully obstructs or delays the execution of the Tax Acts or this Act, or negligently conducts or wilfully misconducts himself in the execution of any of such Acts, he shall incur a penalty of one hundred pounds, and shall be dismissed from the office of clerk and be incapable of again acting as clerk or clerk's assistant.

Clerk not to take fees.

(4.) No clerk shall demand, take, or receive any fee, gratuity, or perquisite for anything to be done by him as clerk by virtue and under the authority of this Act or the Tax Acts from any person other than the person appointed by the Board to pay the allowances which such clerk may be entitled to.

(5.) [*Refers to Land Tax.*]

Vacancy in office of clerk.

(6.) In the event of a vacancy occurring in the course of any year by the death, dismissal, or resignation of any clerk or otherwise, the Land Tax Commissioners and General Commissioners respectively shall fill up such vacancy by the election in manner aforesaid of a person to be clerk for the remainder of such year.

43 & 44 Vict. c. 19, s. 25.

(*a*) This section does not apply to Ireland. The Taxes Management Act, 1880, s. 25.

Remuneration of Clerk.

52 & 53 Vict. c. 42, s. 13. Amendment of law as to allowances to clerks to Commissioners of Taxes.

The Inland Revenue Act, 1889—

13. It shall be lawful for the Commissioners of Inland Revenue, with the consent of the Treasury, to grant, in addition to the allowances and remuneration payable to clerks to Commissioners of Income Tax and Inhabited House Duties by virtue of the Taxes Management Act, 1880, such further sums for expenses incurred other than necessary office expenses, and by way of additional remuneration as they may deem expedient.

51 & 55 Vict. c. 13, s. 1. Abolition of poundage to clerks to Commissioners and assessors.

The Taxes (Regulation of Remuneration) Act, 1891—

1. The allowances and remuneration which a clerk to Commissioners of Income Tax and Inhabited House Duties and an assessor are entitled to receive by virtue of the Taxes Management Act, 1880, are hereby abolished as respects the year commencing on the sixth of April, 1891, and any subsequent year.

54 & 55 Vict. c. 13, s. 2. Allowances to clerks to Commissioners.

2. The person holding the office of clerk to the Commissioners of Income Tax and Inhabited House Duties shall, in lieu of the allowances and remuneration which he would have received if this

Act had not been passed, receive a sum not less than the amount paid to the clerk by way of poundage for the year which commenced on the sixth day of April, 1890, and also a further sum not less than one-third of the aggregate amount allowed to the clerk for expenses necessarily incurred in the due execution of the Acts relating to the Land Tax and Inhabited House Duties during the same year and the two preceding years.

5. The Taxes Management Act, 1880, shall be read, as respects the year commencing on the sixth day of April, 1891, and any subsequent year, as if the amount to be received by the clerk under this Act were substituted for all the allowances and remuneration in clause one in the First Schedule to that Act. . . . . 54 & 55 Vict. c. 13, s. 5. Amendment of 43 & 44 Vict. c. 19.

The Income Tax (Public Offices) Act, 1872— 35 & 36 Vict. c. 82, s. 1.

1. The Treasury may, if they think special circumstances require it, by minute assign such remuneration as they may think expedient to any such assessor (*a*), collector, or clerk. Every such minute shall state the circumstances under which it is made, and shall be laid before Parliament within one month after it is made, if Parliament be then sitting, or if not, within one month after the then next meeting of Parliament.

(*a*) This refers only to assessors, collectors, and clerks employed in the collection of income tax in public departments; but the rest of the Act is repealed by the Statute Law Revision Act, 1893. 56 & 57 Vict. c. 54.

The Income Tax Act, 1842— 5 & 6 Vict. c. 35, s. 183.

183. . . . . and no person shall under any pretence whatever be entitled to any part of the reward hereby given to such clerk, except the assistant (if any) to such clerk, whose compensation shall be apportioned and settled by the respective Commissioners; nor shall such clerk, under any pretence whatever, demand, take, or receive any fee, gratuity, or perquisite, for any matter or thing to be done by him by virtue and under the authority of this Act, from any person, other than the proper officer for receipt, in manner aforesaid: . . . . Clerk not to take fees.

3. Appointment of Additional Commissioners.

Qualification of Additional Commissioners.

The Income Tax Act, 1842— 5 & 6 Vict. c. 35, s. 16. For choosing additional Commissioners,

16. Whenever it shall be deemed by the Commissioners for the general purposes of this Act to be expedient that certain of the powers herein contained shall be executed by Commissioners other than and in addition to the persons to be chosen or appointed as

aforesaid, such additional Commissioners shall be chosen by the Commissioners for general purposes acting in the same district; for which purpose the said Commissioners, being duly qualified as required by this Act, shall, with the consent of the major part of them assembled at any meeting to be held for that purpose, set down in writing lists of the names of such persons residing within their respective districts as shall in the opinion of such Commissioners be fit and proper persons to act as such additional Commissioners, which lists shall contain the names of so many of those persons as the said Commissioners shall in their discretion, after taking into consideration the size of each district, and the number of persons to be assessed therein, think requisite for the due execution of this Act; which lists, being respectively signed by such Commissioners, shall be a sufficient authority for such additional Commissioners being respectively qualified as hereinafter is mentioned, and they are hereby authorized to take upon themselves the execution of the several powers of this Act according to the provisions thereof: Provided always, that the persons appointed to supply vacancies in any district may be chosen and act as additional Commissioners until their services shall be required as Commissioners for general purposes: Provided also, that no person shall be capable of acting as such additional Commissioner who shall not be seised or enfeoft or possessed of an estate of the like nature, and of one-half the value, herein required for the estate of a Commissioner for general purposes in the same district: Provided also, that where no additional Commissioners shall be named and appointed in any district the Commissioners appointed for general purposes shall execute this Act in such district in all matters and things hereby authorized to be done by additional Commissioners.

their qualification.

In default of naming additional Commissioners.

5 & 6 Vict. c. 35, s. 19. Notice to be given to additional Commissioners to take upon themselves the execution of this Act.

19. Whenever the said Commissioners for general purposes shall have named such additional Commissioners as aforesaid, they shall cause notice thereof in writing, signed by two or more of them, to be delivered to the said additional Commissioners by the assessors of the respective parishes or places where they reside, naming the day and place appointed by the Commissioners for general purposes for the first meeting of the said additional Commissioners, and which meeting shall be appointed to be held not later than ten days after the date of such notice; and the said respective assessors shall, without delay, cause the respective persons so named to be summoned, by notice in writing, either given personally or left at their respective places of abode, to assemble, at the time and place mentioned in such notice, for the

purpose of qualifying themselves to act in the execution of the powers vested in them by this Act; and the said Commissioners for general purposes shall administer the oath to such additional Commissioners required by this Act to be taken by them (*a*), and shall then and there appoint a day for the said additional Commissioners to bring in their certificates of assessment in the manner herein directed; and the clerk to the Commissioners in each district, or his assistant, shall also be appointed clerk to the additional Commissioners appointed for the same district, and shall attend the said additional Commissioners at their meetings as their clerk.

The oath to be administered to them.

Clerk.

(*a*) *Post*, sect. 38, p. 38, and Form, p. 459.

20. It shall be lawful for the Commissioners for general purposes, whenever in their judgment the same shall be requisite, to divide such additional Commissioners into district committees, and to allot to each committee distinct parishes, wards, or places in which such committees shall separately act in the execution of this Act, but so that the meetings of such committee shall be appointed at such times as that the clerk to such Commissioners may attend every meeting: Provided always, that not more than seven persons shall act together as additional Commissioners for the same district not being formed into several divisions as aforesaid, nor any greater number act together in the same committee; and that where more than seven persons shall attend as such additional Commissioners at any meeting, either for the whole of any district or for any division thereof, the seven persons first in their order on the list signed by the Commissioners for general purposes then present shall act, and the rest shall withdraw from such meeting: Provided also, that not less than two additional Commissioners shall be competent to form any meeting either for any district or division thereof, and that any two of them, or the major part of them then present, shall be competent to do any act authorized by this Act.

5 & 6 Vict. c. 35, s. 20.

Dividing additional Commissioners into committees.

Number of additional Commissioners in each committee or district.

21. Provided always, if it shall appear to the Commissioners for general purposes, whether they shall have been chosen as aforesaid or shall act by virtue of their appointment of Commissioners for executing the said Land Tax Act, to be expedient that a greater number than seven Commissioners for general purposes, possessing the qualification required for such Commissioners should be appointed for any district, instead of appointing Commissioners possessing only the qualification required for additional Commis-

5 & 6 Vict. c. 35, s. 21.

For appointing a greater number of Commissioners for general purposes instead of additional Commissioners.

sioners as before mentioned, it shall be lawful for them to appoint such greater number, not in any case exceeding the number of seven, observing, with regard to such appointments, the same rules as in the first appointment of Commissioners for general purposes, but nevertheless, without adding thereto any persons to supply their vacancies; and in every case, of appointing such increased number of Commissioners for general purposes it shall be lawful for the said Commissioners, at their first meeting after such appointment, and they are hereby required, to choose indifferently by lot such number of their own body, not less than two or more than seven to execute the office vested in additional Commissioners by this Act, and the persons so chosen shall be additional Commissioners for executing this Act and the powers hereby vested in additional Commissioners, and they are hereby required to execute this Act accordingly, and the remaining Commissioners not so chosen by lot shall execute the powers vested in the Commissioners for general purposes; provided also, that where no such additional Commissioners shall have been appointed specially to execute the powers vested in additional Commissioners, the Commissioners acting in the execution of the powers of this Act, whether chosen as aforesaid or not, shall divide themselves in such manner that two Commissioners at the least shall be appointed to execute the powers vested in additional Commissioners by this Act; and if in such case there shall not be two remaining persons at least qualified to act as Commissioners for general purposes in such district, then the persons qualified to act in the execution of the powers of this Act as Commissioners for general purposes in any adjoining district of the same county, riding, division, shire, or stewartry, or such number of them as shall be requisite, shall execute this Act and the powers hereby vested in Commissioners for general purposes in and for such first-mentioned district.

Two of them to execute the office of additional Commissioners.

Where none such are appointed, then Commissioners for general purposes may act.

If not sufficient, then others may be taken out of the adjoining district.

5 & 6 Vict. c. 35, s. 17. Appointment of Commissioners in places not having persons qualified.

17. Provided always, that if in any city, liberty, franchise, cinque port, town, or place, for which separate Commissioners have been appointed to act in execution of the said Land Tax Act, there shall not be found a sufficient number of persons, qualified as directed by this Act, and willing to act as Commissioners for general purposes, or as additional Commissioners, it shall be lawful to appoint, as such Commissioners or additional Commissioners, any persons residing in such city, liberty, franchise, cinque port, town, or place, who shall be liable to be assessed under the provisions contained in this Act for annual profits, however arising, to the amount of two hundred pounds or upwards.

4. Appointment of Special Commissioners.

Functions of Special Commissioners.

The Income Tax Act, 1842—

5 & 6 Vict. c. 35, s. 23. Commissioners for special purposes.

23. The Commissioners of Inland Revenue for the time being, together with such persons as shall be appointed Commissioners for special purposes as next hereinafter mentioned, shall be Commissioners for the special purposes of this Act; and it shall be lawful for the Treasury, by warrant, from time to time to appoint such and so many other persons to be Commissioners for such special purposes as they respectively shall think expedient; which said Commissioners of Inland Revenue, and Commissioners so to be appointed as last aforesaid, without other qualification being required than the possession of their respective offices, shall have full authority to execute the several powers given by this Act to Commissioners for special purposes, either in relation to the allowances specified in Number VI. Schedule (A.) of this Act, or in relation to the special exemptions granted from the duties mentioned in Schedule (C.) of this Act, or to the charging and assessing the profits arising from annuities, dividends, and shares of annuities paid in the United Kingdom out of the revenues of any foreign state, as herein mentioned, and also in relation to the examining, auditing, checking, and clearing the books and accounts of dividends delivered to the Commissioners of Inland Revenue under the authority of this Act, and shall also have full authority to do any other act, matter, or thing hereby directed or required to be done by Commissioners for special purposes; and all powers, provisions, clauses, matters, and things contained in this Act for ascertaining the amount of any duty, exemption, or allowance mentioned in this Act shall be used, practised, and put in execution by the said Commissioners for special purposes in ascertaining the amount of duty or any exemption or allowance placed under their cognizance or jurisdiction: Provided always, that it shall not be lawful for the said Commissioners for special purposes (except when acting in the execution of this Act in the place of Commissioners for general purposes, or on any appeal in the cases authorized by this Act) to summon any person to be examined before them, but all inquiries by or before the said Commissioners for special purposes (except in the several cases aforesaid) shall be answered by affidavit, to be taken before one of the Commissioners for general purposes in their respective districts; and such Commissioners for special purposes shall have authority to use, exercise, and apply all the powers of this Act as effectually as any other

Functions of special Commissioners.

Their proceedings to be by affidavit without *vivâ voce* examination.

Commissioners are hereby authorized to use, exercise, or apply the same, so far as the same powers relate to the jurisdiction given to the said Commissioners for special purposes; and the said Commissioners for special purposes shall and may be allowed such salary for their pains and trouble, and such incidental expenses, as the Treasury shall direct to be paid to them: Provided always, that the Treasury shall cause an account of all appointments of Commissioners for special purposes with salaries to be laid before each House of Parliament within twenty days after their appointment respectively, if Parliament shall then be sitting, and if Parliament shall not be sitting then within twenty days after the next meeting of Parliament.

Appointments of Commissioners with salaries to be laid before Parliament.

Remuneration of Special Commissioners.

5 & 6 Vict. c. 35, s. 186. Treasury to settle allowances for Commissioners, surveyors, and other officers, and to discharge incidental expenses.

186. Provided always, that it shall be lawful for the Treasury to settle and appoint such salaries and allowances for the service, pains, and labour of the Commissioners for special purposes, inspectors, surveyors, and other officers to be employed in the execution of this Act, and otherwise in relation thereto, and also to discharge such incident charges and expenses attending the execution of this Act, as the Treasury shall think fit and reasonable in that behalf.

5. Various Persons who are to be Commissioners.

The Income Tax Act, 1842—

5 & 6 Vict. c. 35, s. 24. Governor and directors of the Bank of England to be Commissioners for assessing duties on all annuities, dividends, pensions, salaries, &c., payable by the Bank, and on their profits.

24. The governor and directors of the company of the Bank of England shall be Commissioners for executing this Act, for the purpose of assessing and charging the duties hereby granted in respect of all annuities payable to the said company at the receipt of the exchequer, and the profits attached to the same, and divided amongst the several proprietors, and in respect of all annuities, dividends and shares of annuities payable out of the revenue of the United Kingdom to any persons, corporations, or companies whatever, and which shall have been intrusted to the said governor and company for such payment, and in respect of all other annuities, dividends and shares of annuities which shall have been intrusted to the said governor and company for payment as aforesaid, and in respect of all profits and gains of the said company chargeable under Schedule (D.) of this Act, and in respect of all other dividends, annuities, pensions, and salaries payable by the said company, and also in respect of all other profits chargeable with duty under this Act, and arising within any office or department under the management or control of the said governor and company;

and the said Commissioners shall have authority to use, exercise, and apply all the powers of this Act as fully and effectually as the Commissioners for the general purposes of this Act are authorized to use, exercise, or apply the same, so far as the same relate to the said duties to be assessed and charged by the said governor and directors, and shall make their assessments of the said duties under and subject to the rules, regulations, and exemptions contained in the several Schedules of this Act under which such duties are respectively chargeable.

5 & 6 Vict. c. 35, s. 27. Directors of the East India Company to be Commissioners for assessing duties on interest, dividends, annuities, pensions, salaries, &c. payable by them.

27. The directors of the East India Company shall be Commissioners for executing this Act, and with the like powers as aforesaid, for the purpose of assessing and charging the duties hereby granted in respect of the interest payable on the bonds of the said company, and in respect of all dividends, annuities, pensions, and salaries payable by the said company, and also in respect of all other profits and gains chargeable with duty under this Act, and arising within any office or department under the management or control of the said company, which assessments shall be made under and subject to the rules, regulations, and exemptions contained in the several schedules under which the said duties are respectively chargeable.

5 & 6 Vict. c. 35, s. 28. Commissioners for reduction of national debt to assess the duties on all annuities paid by them, and on salaries and pensions.

28. The Commissioners for the reduction of the national debt shall be Commissioners for executing this Act, and with the like powers as aforesaid, for the purpose of assessing and charging the duties hereby granted in respect of all annuities payable by them out of the revenue of the United Kingdom, and in respect of all salaries and pensions payable in any office or department under their management or control; and the said Commissioners shall make their assessments of the said duties under and subject to the rules, regulations and exemptions contained in the several schedules under which the said duties are respectively chargeable.

5 & 6 Vict. c. 35, s. 29. Commissioners for charging foreign dividends.

29. The said Commissioners for special purposes shall be Commissioners under the regulations of this Act, and with the like powers as aforesaid, for the purpose of assessing and charging the duties hereby made payable on all dividends and shares of annuities payable out of the revenue of any foreign state to any persons, corporations, companies, or societies in the United Kingdom, which shall have been or shall be intrusted for such payment to any person, corporation, company, or society whatever in the United Kingdom, other than and except the several companies aforesaid, which assessments shall be made under and

subject to the rules, regulations, and exemptions contained in Schedule (C.) of this Act.

5 & 6 Vict. c. 35, s. 30. Appointment of Commissioners for the duties on offices in the Courts or public departments.

30. And for the ordering, raising, levying, and paying of the said sums of money hereby made payable on offices and employments of profit, be it enacted, that the Lord High Chancellor, the judges, and the principal officer or officers of each Court or public department of office under her Majesty throughout the United Kingdom, whether the same shall be civil, judicial, or criminal, ecclesiastical or commissary, military or naval, shall respectively have authority to appoint Commissioners from and amongst the officers of each Court or department of office respectively; and the persons so appointed, or any three or more of them, not in any case exceeding seven, shall be Commissioners for executing this Act in relation to the offices in each such Court or department respectively: Provided always, that in relation to each department of office, not being one of her Majesty's Courts, civil, judicial, or criminal, or an ecclesiastical or commissary Court, the Treasury shall, whenever they may think it expedient, settle and determine in what particular departments Commissioners shall not be appointed, and in such case shall settle and determine in what other department of office the officers of that department wherein Commissioners shall not be appointed shall be assessed; and also whenever there shall be any default in the offices of any department, or in any Court aforesaid, in appointing Commissioners, the Treasury shall, within the time herein limited, appoint fit and proper persons to be Commissioners for executing this Act in the several Courts or departments of offices aforesaid for which they shall be appointed from and amongst the officers in the several departments respectively, uniting for the purposes of this Act, in cases requiring the same, two or more offices under the same Commissioners, but nevertheless with distinct officers from each office so united for assessing and collecting the duties, as directed by this Act; and where any dispute shall arise touching the department in which any office is executed, the Treasury shall determine the same: Provided also, that where the Commissioners of one department shall execute this Act in relation to any other department, the assessors and collectors for such other department shall be appointed from the officers of such other department, with all the powers and privileges appertaining to such appointments: Provided also, that where no appointment shall be made of Commissioners before the expiration of the time limited by this Act, the Commissioners for executing this Act in relation to the duties on lands and tenements shall, on due notice in the manner herein

Power reserved to the Treasury with respect to the assessing of public departments.

directed, execute this Act in their several districts in relation to the said duties on offices and employments of profit exercised within the same districts respectively; and the appointment of such Commissioners for offices and employments of profit shall be notified to the Commissioners of Inland Revenue; and the want of such notification in due time shall be deemed full proof of default in making such appointment.

The Income Tax Act, 1853—

16 & 17 Vict. c. 34, s. 26. Who to be Commissioners where there are not sufficient officers in any Court or department.

26. Where in any Court or department of office there shall not be a sufficient number of officers proper to be appointed Commissioners for executing this Act in relation to the duties on offices and employments of profit in such Court or department of office, it shall be lawful for the Treasury to direct that the Commissioners for any other department shall execute this Act in relation to the offices and employments of profit in any such Court or department as aforesaid; and in default of a sufficient number of Commissioners being appointed in any such Court or department, and of such direction as aforesaid, the Commissioners for General Purposes in their respective districts in England and Scotland respectively, and the Commissioners for special purposes in Ireland, shall respectively put this Act in execution in relation to the duties on offices and employments in any such Court or department as aforesaid; and wherever in the said Act of the fifth and sixth years of her Majesty, chapter thirty-five, any power or direction is given to the Commissioners for executing the said Act in relation to the duties on lands and tenements to execute the same in their several districts in relation to the duties on offices and employments of profit, every such power and direction shall, in relation to the duties on offices and employments of profit in Ireland under this Act, be executed and carried out by the Commissioners for Special Purposes.

Powers of Commissioners for general purposes as to duties on offices to be executed in Ireland by Commissioners for special purposes.

The Income Tax Act, 1842—

5 & 6 Vict. c. 35, s. 31. Commissioners for duties on offices in Houses of Parliament, counties palatine, inferior Courts, and under ecclesiastical bodies.

31. The speaker and the principal clerk of either House of Parliament, the principal or other officers in the several counties palatine, and the Duchy of Cornwall, or in any ecclesiastical Court, or in any inferior court of justice, whether of law or equity, or criminal or justiciary, or under any ecclesiastical body or corporation, whether aggregate or sole, throughout Great Britain (*a*), shall appoint Commissioners from and amongst the persons executing offices in either House of Parliament, or in their respective departments of office; and the persons so appointed, or any three or more of them, not in any case exceeding seven, shall

be Commissioners for executing this Act, in relation to the places, offices, and employments of profit in each House of Parliament, and in each such department respectively; which appointments shall be made, and the names of the Commissioners shall be transmitted to the Commissioners of Inland Revenue within the time herein limited, or in default thereof such appointments shall be made by the Treasury: Provided always, that where no such appointment as last mentioned shall be made before the expiration of the time limited by this Act, the Commissioners for executing this Act in relation to the duties on lands and tenements shall, in their several districts, on due notice of such default in the manner herein directed, also execute this Act in relation to the duties on such offices or employments of profit exercised within the same districts respectively; and the want of notification of any such appointment to the Commissioners of Inland Revenue in due time shall be deemed full proof of default in making such appointment.

(*a*) As to Ireland, see 16 & 17 Vict. c. 34, s. 20, *post*, p. 351.

5 & 6 Vict. c. 35, s. 32. Commissioners for the duties on offices in cities and boroughs, and all other offices not under the Crown, in counties, ridings, &c.

32. The mayor, aldermen, and common council, or the principal officers or members, by whatever name they shall be called, of every corporate city, borough, town, or place, and of every cinque port, throughout Great Britain (*a*), or any three or more of them, not in any case exceeding seven, shall be Commissioners for executing this Act, and the powers herein contained, in relation to the public offices or employments of profit in such city, corporation, and cinque port, and in every guild, fraternity, company, or society, whether corporate or not corporate, within such city, corporation, or cinque port; and that for all offices or employments of profit (not being public offices or employments of profit under her Majesty) in any county, riding, city, liberty, franchise, town, or place, whether in the appointment of the lieutenant, custos rotulorum, or the justices or magistrates, or Commissioners for aids or taxes, or sheriff of such county, riding, city, liberty, franchise, town, or place, or of any trustees or guardians of any trust or fund in such county, riding, city, town, or place, and for all parochial offices in such county, riding, city, town, or place (except corporate offices in cities, corporate towns, boroughs, or places, or offices in cinque ports as aforesaid), the Commissioners for executing this Act in relation to the duties on lands and tenements shall, in their several districts, also execute this Act in relation to the said duties on offices in such county, riding, city, liberty, franchise, town or place; and such respective Commissioners shall and may exercise any of the powers contained in this Act, in relation to any of the duties herein mentioned, for

causing due returns to be made from the respective officers within their respective jurisdictions, and for compelling the assessors to make their assessments, and return the same, and for the due collection of and accounting for the said duties, and may act therein in all respects as fully and effectually as any other Commissioners are hereby empowered to act in relation to the said other duties; provided the moneys collected of the said duties, under the respective Commissioners acting for such offices in corporate cities, boroughs, towns, or places aforesaid, or in the cinque ports, or in the several counties, ridings, divisions, cities, liberties, franchises, towns, and places, shall be paid to the proper officer for receipt for the county or riding, and not otherwise, and that the like duplicates shall be delivered of such last-mentioned duties as in other cases where the same are directed to be paid in like manner.

(*a*) As to Ireland, see 16 & 17 Vict. c. 34, s. 20, *post*, p. 351.

Sect. 32 was repealed by the Customs and Inland Revenue Act, 1876, s. 9, but was revived by sect. 7 of the Customs, Inland Revenue, and Savings Bank Act, 1877. Both sect. 9 of the Customs and Inland Revenue Act, 1876, and sect. 7 of the Customs, Inland Revenue, and Savings Bank Act, 1877, are repealed by the Statute Law Revision Act, 1883, leaving sect. 32 intact.

5 & 6 Vict. c. 35, s. 33. Appointment of Commissioners to be notified to the Inland Revenue Offices; in default of such notification, the appointment to devolve on the Treasury, and the Commissioners of the district to execute the Act.

33. The appointment of Commissioners for executing this Act in relation to the duties on offices and employments of profit as aforesaid shall be notified to the Commissioners of Inland Revenue, within one calendar month after the passing of this Act, with respect to the first assessment under the same, and within one calendar month after the fifth day of April in any future year; and in default thereof the appointment of such Commissioners shall devolve on the Treasury, and on the Commissioners of the district, in succession as aforesaid: Provided always, that such appointment by the Treasury shall take place within one calendar month after the notification of such default as aforesaid from the Commissioners of Inland Revenue; and in case of no appointment as last aforesaid, notified to the Commissioners of Inland Revenue in like manner, the execution of this Act shall devolve on the Commissioners appointed for the district in relation to the duties on lands, tenements, and hereditaments; and every such appointment shall be until other Commissioners shall be appointed, and may be renewed annually on or before the fifth day of April in each year during the continuance of this Act: Provided always, that the Commissioners so to be appointed may continue to act from year to year, so long as they are respectively willing to act, without any new appointment, unless it shall be deemed expedient

Commissioners appointed may continue to act.

under the powers of this Act that any department for which Commissioners have been appointed should be assessed under the Commissioners of any other department.

5 & 6 Vict. c. 35, s. 34. Commissioners for the duties on pensions and stipends payable by her Majesty.

34. For the better execution of this Act, so far as the same relates to the duties hereby granted on pensions or stipends payable by her Majesty, or out of the public revenue, contained in Schedule (E.), and for the ordering, raising, levying, and paying of the duties hereby made payable thereon, in cases not otherwise provided for by this Act, the paymasters of civil services, and such other persons as the Treasury shall appoint, shall be Commissioners for executing this Act, and all the powers herein contained, in relation to the said last-mentioned duties, or shall respectively appoint Commissioners from and amongst the officers of those departments for such purposes.

53 & 54 Vict. c. 8, s. 28. Assessment of Universities of Oxford and Cambridge.

The Customs and Inland Revenue Act, 1890—

28. Notwithstanding any enactment to the contrary, the assessment and collection of the duties of income tax, and of the duties on inhabited houses within the Universities of Oxford and Cambridge, shall be deemed to have been as from the fifth day of April, 1886, and shall be subject to the provisions following (that is to say) :—

(a) Any college or hall for the time being attached to or associated with the University of Oxford, and all offices and employments in connection therewith, and persons residing therein, shall be within the jurisdiction of the General Commissioners for that University :

(b) The General Commissioners for the University of Cambridge shall be the Commissioners for the said duties in respect of all the University buildings, and the colleges, halls, and public hostels for the time being attached to or associated with that University, and of all offices and employments in connection therewith, and of all the profits or gains of all persons residing therein :

(c) Each of the said jurisdictions shall be deemed to be one parish or place for the purposes of assessment and collection.

Exemption of Commissioners from certain Offices.

5 & 6 Vict. c. 35, s. 35. Commissioners entitled to certificates

The Income Tax Act, 1842—

35. Every person acting as a Commissioner as aforesaid in the execution of this Act shall on request be entitled unto a certificate thereof under the hands of the Commissioners of Inland

Revenue, which certificate shall continue in force so long only as such person shall continue to act as such Commissioner, and shall be revocable by the Treasury, by any instrument in writing, when it shall appear to them that such person hath neglected to perform his duty as such Commissioner; and the person to whom such certificate shall have been granted shall, during the continuance thereof in force, be discharged of and from all parish and ward offices within the parish or ward wherein such person shall dwell, which said certificate shall be enrolled by the clerk of the peace of the county or city in which the same shall be granted, for which enrolment the said clerk of the peace shall have for his fee the sum of one shilling, and no more; and the said clerk of the peace shall cause every certificate revoked in manner aforesaid to be taken off the roll on notice thereof to be given to him by the Commissioners of Inland Revenue.

exempting them from parish and ward offices.

The Taxes Management Act, 1880—

43 & 44 Vict. c. 19, s. 40.

40. Every General Commissioner or Additional Commissioner to whom a certificate has been or shall be granted by the Board under the thirty-fifth section of the Income Tax Act, 1842, shall, so long as such certificate continues in force, be discharged, not only from the several offices referred to in the said enactment, but also from serving on juries in the county where he dwells.

Exemption of Commissioners from serving on juries.

This section does not apply to Ireland. The Taxes Management Act, 1880, s. 25.

43 & 44 Vict. c. 19, s. 25.

The Income Tax Act, 1853—

16 & 17 Vict. c. 34, s. 9.

9. The several persons chosen or appointed under the provisions of the said first-mentioned Act (*a*) to be respectively Commissioners for the general purposes of the said Act, and to be respectively additional or other Commissioners, being respectively duly qualified in that behalf, and also the several persons appointed to be and who on the fifth day of April one thousand eight hundred and fifty-three were Commissioners for the special purposes of the said Act, shall, without any further or other election, nomination, or appointment respectively, be such Commissioners as aforesaid for the like purposes under this Act; and wherever in the said Act, or in any Act relating to the duties thereby granted, mention is made of the Commissioners of Stamps and Taxes, the same in relation to the duties granted by this Act shall be construed and deemed to designate the Commissioners of Inland Revenue: Provided that no persons shall be Commissioners to supply vacancies amongst the said Commissioners for General Purposes except such persons as shall after the passing of this Act be chosen for that purpose in the manner provided by the said first-mentioned Act.

Commissioners appointed under former Acts to be Commissioners under this Act.

(*a*) *I.e.*, the Income Tax Act, 1842.

6. Appointment of Assessors.

5 & 6 Vict. c. 35, s. 36. Appointment of assessors and collectors.

The Income Tax Act, 1842—

36. In England the Commissioners for General Purposes may appoint assessors and collectors for the duties granted by this Act in like manner as assessors and collectors may be appointed by the Taxes Management Act, 1880; and in Scotland the said Commissioners for General Purposes may in like manner appoint assessors for the said duties hereby granted; and the same persons who now are or may be appointed collectors or officers for collecting and receiving the land tax and assessed taxes in Scotland under the authority of the Act in that behalf made, and none other, shall be collectors and receivers of the duties granted by this Act.

Assessors.

43 & 44 Vict. c. 19, s. 42. Appointment of assessors.

The Taxes Management Act, 1880—

42.—(1.) The General Commissioners shall in England before the tenth and in Scotland before the thirtieth day of April in each year direct their several and joint precept to such inhabitants of each parish, and such number of them as they think most convenient, to be assessors for such parish, requiring them to appear before the said Commissioners at such place and at such time not exceeding ten days after the date of the precept as they appoint.

(2.) At such their appearances the General Commissioners shall appoint such of the said inhabitants as they think proper to be the assessors for such parish, and shall give them instructions how they are to make their certificates and assessments, and shall then and there appoint another day, which day shall not be later in England than the twentieth day of July, and in Scotland than the first Wednesday in August in the same year, for them to appear before the Commissioners, and bring in their certificates of assessments, which shall be verified upon their oaths or solemn affirmations, and not otherwise.

(3.) An assessor's appointment shall be and continue for and during the year to commence on the sixth day of April in each year, and until other assessors shall be appointed for the same parishes, and for the same duties.

(4.) In every parish wherein assessors are not appointed before the times limited in each year to serve for the year ensuing, the last appointment of assessors for the parish shall continue in force until other assessors are appointed for the parish, and for the same duties.

(5.) Notice of continuance in office of an assessor as aforesaid shall be given to him by the General Commissioners or by the

surveyor. By such notice such assessor may be required to attend on a day and place named therein, then and there to receive and take charge of all notices and papers to be delivered to him for the due execution of his office.

(6.) In a parish where two able and sufficient inhabitants cannot be found, the General Commissioners shall nominate and appoint fit persons residing near such parish to be assessors for the parish.

Justices may appoint.

(7.) If a failure happens in the appointment of the assessor for any parish, whereby the assessment of the duties is likely to be delayed, the magistrates or justices of the peace having jurisdiction in or over such parish, or any two of them, shall, on notice of such default given them by the surveyor, appoint an assessor, observing therein the rules and regulations prescribed by this Act for the appointment of such officer by Commissioners.

This section does not apply to Ireland: Taxes Management Act, 1880, s. 25. 43 & 44 Vict. c. 19, s. 25.

The Revenue Act, 1884— 47 & 48 Vict. c. 62, s. 7 (3).

7.—(3.) Where an officer of Inland Revenue has been appointed to be an assessor within any county or burgh for the purposes of the Act of the session of the 17 & 18 Vict. c. 91, no other person shall be appointed to be assessor for the district or division of such officer for the duties to which the Taxes Management Act, 1880, relates, provided that where a person other than the officer of Inland Revenue of a district or division is assessor for or within such district or division at the time of the passing of this Act, he shall be as capable of being re-appointed assessor as if this Act had not been passed.

Lord Advocate v. *Ayrshire Commissioners* (1895), 22 Sc. Ses. Cas. 4th Series, 986; 3 Tax Cas. 395; 32 Sc. L. R. 709.

It is incompetent for the General Commissioners of Income Tax for a district to appoint an assessor of income tax for the whole district when it includes a burgh for which an officer of income tax has already been appointed assessor under the Valuation Acts.

The Taxes Management Act, 1880— 43 & 44 Vict. c. 19, s. 43.

In certain cases surveyor to act.

43.—(1.) In any parish where assessors are not appointed in pursuance of this Act, or being appointed do not take on themselves the office at or before the time limited, or where the assessors for any former year on whom the duty of assessors devolves do not take on themselves the office of assessor at or before the time limited, the surveyor of the district may execute the duty of assessor for such parish until assessors are appointed, and take on themselves the said office.

(2.) The surveyors acting in the metropolis as defined by the Valuation (Metropolis) Act, 1869, shall be the assessors for any

duties of income tax which may be at any time granted and payable under Schedules (A.) and (B.) of the Income Tax Act, 1853, upon any property in the said metropolis, and shall also be the assessors for the duties on inhabited houses in the said metropolis; and nothing in this Act shall empower the General Commissioners to appoint assessors in the metropolis as so defined for the duties under Schedules (A.) and (B.) of the Income Tax Act or for the inhabited house duties.

43 & 44 Vict. c. 19, s. 25. This section does not apply to Ireland: Taxes Management Act, 1880, s. 25.

43 & 44 Vict. c. 19, s. 44. Exemption.

44. No person inhabiting any city, borough, or town corporate shall be compelled to be an assessor for a place out of the limits of such city, borough, or town.

43 & 44 Vict. c. 19, s. 25. This section does not apply to Ireland: Taxes Management Act, 1880, s. 25.

43 & 44 Vict. c. 19, s. 45. Declaration of office.

45. Every person appointed an assessor shall, on his appointment, and before he acts or takes upon himself such office, make and subscribe the following declaration, viz.:—

"I A. B. do solemnly declare that I will diligently execute the office of an assessor to which I am appointed by authority of the Taxes Management Act, 1880, and that in the assessment which I am required to make by any Tax Act granting to Her Majesty any duties to be assessed under the regulations of the said Act, I will faithfully and honestly act without favour or affection, according to the best of my skill and knowledge."

43 & 44 Vict. c. 19, s. 25. This section does not apply to Ireland: Taxes Management Act, 1880, s. 25.

Penalties on Assessors.

43 & 44 Vict. c. 19, s. 46. For neglect to attend;

46.—(1.) If a person to whom a precept as aforesaid is directed by the General Commissioners—

(a) Wilfully neglects or refuses to appear before them according to the tenour and effect of such precept; or

or refusal.

(b) Having appeared, refuses to submit to be appointed assessor of the said duties, or any of them; or

(c) Neglects or refuses to make and subscribe the prescribed declaration of office,

he shall for every such offence incur a penalty of ten pounds.

Neglect of duty.

(2.) If a person appointed by the General Commissioners an assessor—

(i.) Wilfully neglects or refuses to perform his duty in the due and speedy execution of this Act and the Tax Acts:

(ii.) Wilfully neglects or refuses to charge and assess himself and all other persons chargeable with the duties, or to make his assessment in accordance with the law:

(iii.) Acts in the office of assessor before taking the prescribed declaration of office,

he shall for every such offence incur a penalty of twenty pounds.

(3.) If a person appointed assessor by the justices or magistrates— Where appointed by the justices.

(a) Wilfully neglects or refuses to take on himself the office:

(b) Wilfully neglects or refuses to perform his duty in the due and speedy execution of such office:

(c) Wilfully neglects or refuses to charge and assess himself and all other persons chargeable with the duties, or to make his assessment in accordance with the law:

(d) Neglects or refuses to make and subscribe the prescribed declaration of office,

he shall for every such offence incur a penalty of fifty pounds.

This section does not apply to Ireland: Taxes Management Act, 1880, s. 25. 43 & 44 Vict. c. 19, s. 25.

Remuneration of Assessors.

The Income Tax Act, 1842— 5 & 6 Vict. c. 35, s. 183. Allowance to assessors, collectors, clerks, and other persons.

183. The several assessors and collectors shall have threepence in the pound for what money of the several duties by this Act granted the several collectors shall pay to the proper officer for receipt, to be divided in each separate collection between the said assessors and collectors in equal proportion; . . . Provided always, that no such compensation shall be made to any assessor or collector, in respect of any sum detained or stopped under the authority of this Act, or paid into the Bank of England, or in respect of any sums paid by the respective parties into the said bank, nor to any receiver, nor to any of the persons or corporations intrusted with the payment of annuities, dividends, and shares paid out of any public revenue of the United Kingdom, or elsewhere as aforesaid, other than such sum as shall be directed to be paid to such collectors, receivers, corporations, or persons aforesaid by the warrant of the Treasury for their pains and care in executing this Act.

These allowances are now abolished. See below.

The Taxes Management Act, 1880— 43 & 44 Vict. c. 19, s. 47. Poundage.

47. The several assessors shall have remuneration as appearing in the First Schedule.

This section does not apply to Ireland: Taxes Management Act, 1880, s. 25. 43 & 44 Vict. c. 19, s. 25.

This remuneration is now abolished. (Sect. 47 is repealed by the Statute Law Revision Act, 1894.)

48 & 49 Vict. c. 51, s. 25. Provision as to allowances to assessors and collectors.

The Customs and Inland Revenue Act, 1885—

25. Where the allowance to which an assessor or collector of income tax and inhabited house duties is entitled by virtue of the Taxes Management Act, 1880, together with the allowance to which he is entitled by virtue of the Land Tax Acts, if he be also assessor or collector of land tax, would exceed a sum which in the opinion of the Commissioners for the general purposes of the income tax and inhabited house duties for the division in which the assessor and collector acts, represents more than a fair remuneration for his trouble, the said Commissioners shall have power to fix the amount of such remuneration, and such amount shall be accepted by the assessor or collector in full satisfaction and discharge of his right to allowance under the Taxes Management Act, 1880, or the Land Tax Acts. And in no case shall the aggregate amount to be received by an assessor or collector, either by way of allowances under the said Act or Acts, or by way of remuneration fixed by the Commissioners, exceed the sum of one thousand pounds, exclusive of necessary office expenses.

54 & 55 Vict. c. 13, s. 1. Abolition of poundage to clerks to Commissioners and assessors.

The Taxes (Regulation of Remuneration) Act, 1891—

1. The allowances and remuneration which a clerk to Commissioners of income tax and inhabited house duties and an assessor are entitled to receive by virtue of the Taxes Management Act, 1880, are hereby abolished as respects the year commencing on the sixth day of April, one thousand eight hundred and ninety-one, and any subsequent year.

54 & 55 Vict. c. 13, s. 3. Allowance to assessors.

3. The assessor of income tax and inhabited house duties for any area of assessment shall, in lieu of the allowance which he would have received if this Act had not been passed, receive—

(a) In respect of assessments of the duties under Schedules (D.) and (E.) of the Income Tax Acts, the same amount as the amount of the allowance to the assessor for the year which commenced on the sixth day of April, 1890, and also

(b) In any year in which he acts as assessor of the duties under Schedules (A.) and (B.) of the Income Tax Acts and of inhabited house duties, the same amount as the amount of the allowance to the assessor appointed for the year which commenced on the sixth day of April, 1888, in respect of the assessments for those duties:

Provided that in the event of a change in any area of assessment the Commissioners of income tax and inhabited house duties for the division or district shall have power to adjust and apportion the amounts receivable under this section as they shall think fit.

5. The Taxes Management Act, 1880, shall be read as respects the year commencing on the sixth day of April, 1891, and any subsequent year . . . as if the amount to be received by the assessor . . . under this Act were substituted for the allowances specified in clause two of the First Schedule to that Act.

54 & 55 Vict. c. 13, s. 5. Amendment of 43 & 44 Vict. c. 19.

The Taxes (Regulation of Remuneration) Acts, 1891 and 1892—

6. Nothing in this Act contained shall have any operation or effect in the case of an assessor or collector appointed to act in a division or district where the Commissioners of income tax and inhabited house duties have fixed, or shall hereafter fix, the amount of the remuneration of such assessor or collector under section twenty-five of the Customs and Inland Revenue Act, 1885.

54 & 55 Vict. c. 13, s. 6, and 55 & 56 Vict. c. 25, s. 1. Act not to affect 48 & 49 Vict. c. 51, s. 25.

As to the remuneration of an assessor employed in the collection of income tax in a public department, see *ante*, p. 11.

7. Appointment of Collectors.

The Taxes Management Act, 1880—

43 & 44 Vict. c. 19, s. 71.

PART V.—Appointment of Collectors [England].

71. This part (*a*) shall not extend to Ireland or except where expressly mentioned to Scotland.

Extent of part.

(*a*) Sections 72—81.

Grouping of Parishes.

72 (*a*).—(1.) The Land Tax Commissioners acting for a division may, with the assent of the Board, group parishes together in such division for the purposes of collection; and parishes so grouped shall for such purposes, but for such purposes only, be deemed and taken to be one parish.

43 & 44 Vict. c. 19, s. 72. Collecting groups.

(2.) Where parishes have been so grouped and the grouping proves to be inconvenient, the Land Tax Commissioners may, with the assent of the Board, dissolve the grouping either as regards all or some or one of the parishes so grouped.

(*a*) As to Scotland and Ireland, see sect. 71.

Nomination.

73 (*a*).—(1.) The Land Tax Commissioners and General Commissioners shall, in the month of April in each year, nominate one or more able and sufficient person or persons, being resident within each parish or group, to the office of collector of taxes for every such parish or group within the division for which such Commissioners act.

43 & 44 Vict. c. 19, s. 73. Nomination of collectors.

(2.) In the event of there being no able or sufficient person willing to take the office of collector resident within the parish or group, the respective Commissioners may nominate an able and sufficient person resident within a neighbouring parish or group.

Office not compulsory.

(3.) It shall not be compulsory on any person to accept the office of collector, and no person shall be liable to any penalty for neglecting or refusing to take upon himself the said office, provided he within fourteen days after the notification to him of his appointment either personally or by registered letter addressed to the clerk to the said respective Commissioners signifies his refusal to accept the office.

Penalty in default of notice.

(4.) In the event of a person so nominated not giving notice in the above manner within the prescribed time, and on his failing when required by the respective Commissioners to attend a meeting for the purpose of receiving his appointment and warrant as collector, he shall incur a penalty of twenty pounds.

(5.) On the expiration of the time above limited for declining the office the said respective Commissioners shall appoint such person or persons as they think fit, who has or have been nominated and has or have not declined the office in the prescribed manner, to be collector or collectors for the parish or group for which he or they have been nominated.

(6.) The fact of the nomination or appointment of a person to be collector shall be notified to him personally, or by a registered letter sent through the general post.

(7.) In any case in which a person nominated as collector for a parish or group declines in manner aforesaid the office, the respective Commissioners may nominate some other able and sufficient person to the office, proceeding in the manner hereinbefore directed with regard to any such or any subsequent nominations.

(8.) If the collector for any parish shall not have been appointed on or before the thirty-first day of May in any year, the power of appointing a collector for such parish for that and for every subsequent year shall absolutely vest in the Board, and the Board shall appoint a collector for such parish.

(9.) In the event of the death of a collector for any parish or group in the course of any year, or before the collector's accounts for such parish for such year shall have been closed, the Board or the Land Tax Commissioners and General Commissioners respectively, by whom such collector was for such year appointed, may appoint to the vacant office such person or persons as they may think fit and who may not decline the office in manner aforesaid.

(10.) If a vacancy so occurring by the death of a collector be not filled within forty days from the date of death by the Land Tax Commissioners and General Commissioners where the appointment to such vacancy has to be made by them, the power of filling such vacancy for such a year shall vest in the Board.

(*a*) As to Scotland and Ireland, see sect. 71.

Security to the Crown.

74 (*a*).—(1.) The Board may whenever they think fit— 43 & 44 Vict. c. 19, s. 74. Board may require security.

(a) Give notice to the Land Tax Commissioners and General Commissioners that they require any or all of the persons nominated or appointed collectors in or for any parish or group or division specified in such notice, to give security to the satisfaction of the Board for the due collecting, accounting for, and paying over of the moneys collected or to be collected by such persons respectively, and for the due performance of their duties as such collectors:

(b) Cause the like notice to be given to any person who has been appointed collector.

(2.) After such notice to the Commissioners it shall not be lawful for them to appoint any person to be collector in or for any such parish or group or division, unless he shall previously have given security to the satisfaction of the Board.

(3.) In case a person who has been appointed collector, and to whom such notice as aforesaid shall be given, fails to give security within the time limited by the notice for that purpose, his nomination, and appointment, and authority as collector shall cease at the end of that time.

(*a*) As to Scotland and Ireland, see sect. 71, *supra*.

Appointment by Board.

75 (*a*).—(1.) If after a notice as aforesaid given by the Board there is neglect or delay in the appointment of collectors who previously have given security to the Crown, or a failure on the part of a person nominated or appointed collector to give such security, the Board may appoint a collector or collectors of the land tax and the duties in or for the parish or group or division in or with respect to which such neglect, delay, or failure has occurred. 43 & 44 Vict. c. 19, s. 75. In default of security being given, Board may appoint.

(2.) A person appointed by the Board collector for a parish or group shall have, use, and exercise, and is hereby invested with the like powers and authorities as by this Act and the laws in force a collector appointed by the Land Tax Commissioners and General

Commissioners respectively could or might use or exercise or is invested with.

(3.) The appointment by the Board of a collector shall be by warrant under their hands, and a warrant of the Board directed to a person appointed by them to be collector shall have the like force and effect and confer the like power and authority as a warrant of the said respective Commissioners directed to a person appointed by them to be collector.

(*a*) As to Scotland and Ireland, see sect. 71, *supra*.

43 & 44 Vict. c. 19, s. 76. Security.

76 (*a*).—(1.) The security to be given in pursuance of this Act to the satisfaction of the Board shall be either by bond to the Crown, to be entered into by the collector, with sureties, to be approved by the Board, or as the Board determine, and in such sum as the Board require.

Conditions of bond.

(2.) The condition of every such bond shall be that the said collectors shall—

(a) duly demand the land tax, the duties, and moneys of the persons on whom the same are assessed, or from whom the same are payable; and

(b) in case of non-payment thereof enforce the powers of this Act and the several Acts in that behalf against those who make default; and

(c) account for and pay over all such moneys as shall come to their hands as or for any land tax or the duties to the proper officer appointed by the Board for the receipt thereof; and

(d) such further and other terms and provisions as the Board may deem fit and proper.

(*a*) As to Scotland and Ireland, see sect. 71, *supra*.

Security to the Commissioners.

43 & 44 Vict. c. 19, s. 77. Commissioners, inhabitants, &c. may require security.

77 (*a*).—(1.) The Land Tax Commissioners and General Commissioners may require collectors on their appointment to give security to their satisfaction.

(2.) Any two or more inhabitants of a parish or group being respectively charged to the land tax or the duties in the assessment for the year current, may by notice in writing to the respective Commissioners require that the person whom they propose to appoint collector for such parish or group shall give security to the satisfaction of the Commissioners, such notice to be served personally on or by registered letter addressed to their clerk, and after receipt of such notice it shall not be lawful for the Commissioners to appoint a person who has not given such security.

(3.) The security to be given to the Commissioners may be by a joint and several bond, with two sureties at the least, to and in the names of any two or more of such Commissioners, and the penal sum in any such bond shall, if so required, be equal to the whole land tax duties and moneys assessed in the parish or group, and to be collected by the person whom it is proposed to appoint collector for such parish or group, and from whom security is required.

(*a*) As to Scotland and Ireland, see sect. 71, *supra*.

Exemption from Stamp Duty.

78 (*a*). No bond or other security given under this Act by a collector or other person in respect of the collection, accounting for, or remitting of the land tax or the duties shall be liable to stamp duty.

43 & 44 Vict. c. 19, s. 78. Bonds free from stamp duty.

(*a*) As to Scotland and Ireland, see sect. 71, *supra*.

Liability of Parishes.

The Income Tax Act, 1842—

5 & 6 Vict. c. 35, s. 174. Parish to be answerable for collectors in England.

174. In England the parish or place in which any assessment shall have been made of the duties granted by this Act under any of the schedules marked respectively (A.), (B.), or (D.) shall be answerable for the amount of the duties which shall have been so charged in such parish or place, and for the said duties being duly demanded of the respective persons charged therewith, according to the regulations contained in the Taxes Management Act, 1880, by the collector appointed for such parish or place, and also for such collector duly paying the sums by him received to the proper officer for receipt of the said duties according to such regulations; and any of the arrears of the said duties by this Act granted, caused by or arising from any neglect, default, or failure of any collector for which any parish or place shall be answerable as aforesaid, shall be assessed within or upon such parish or place as soon after such default shall be discovered as conveniently can be done, and shall be charged on the amount of the assessment which shall be made for the same duties in the year commencing from the fifth day of April preceding the time of making such re-assessment, by duly apportioning the amount of such arrear amongst the several persons assessed in that year in the assessment of the same duties on which such arrear shall have accrued, according to the amount of each person's assessment therein, as nearly as the case will admit, and by the like rules, methods, and directions by which the original assessment was made, to be raised and levied in such manner as any assessment may be by virtue of this Act raised and levied under the regulations of the said Act respectively.

Arrears to be re-assessed.

43 & 44 Vict. c. 19, s. 79. Parish not liable for default where board take security.

The Taxes Management Act, 1880—

79 (*a*).—(1.) No parish shall be answerable for the acts, neglects, or defaults of a collector appointed by the Board, or who gives security to the Crown, nor shall a parish be liable to be re-assessed for an arrear or deficiency of the land tax or the duties arising from any default or failure of such collector.

In other cases parish liable.

(2.) Where the collector of a parish is not appointed by the Board or does not give security to the Crown the parish shall be answerable for the amount of the land tax and the duties, and for the same being duly demanded of the persons charged therewith, and for the collector, or his executors or administrators, duly paying over the sums received by him to the collector of inland revenue.

Arrears to be re-assessed.

(3.) Every arrear of the land tax and the duties arising from the default or by the failure of a collector for which a parish is answerable, shall be re-assessed within or upon such parish as soon after such default shall be discovered as conveniently can be done, and shall be charged on the amount of the assessment which shall be made for the same tax or duties in the year commencing from the fifth day of April preceding the time of making such re-assessment, by duly apportioning the amount of such arrear amongst the several persons assessed in that year to the same tax or duties respectively on which such arrear shall have accrued, according to each person's assessment thereof, as nearly as the case will admit, and by the like rules, methods, and directions by which the original assessment was made of the same tax or duties to be raised and levied in such manner as any assessment may by this Act, the Tax Acts, or Land Tax Acts be raised and levied.

(*a*) As to Scotland and Ireland, see sect. 71, *supra*.

Remuneration of Collectors.

Poundage.

43 & 44 Vict. c. 19, s. 80. Poundage to collectors.

80 (*a*). The several collectors in England shall have remuneration as appearing in the First Schedule.

(*a*) As to Scotland and Ireland, see sect. 71, *supra*.
The remuneration is now altered. See below.
Section 80 is now repealed by the Statute Law Revision Act, 1894.

48 & 49 Vict. c. 51, s. 25. Provision as to allowances to assessors and collectors.

The Customs and Inland Revenue Act, 1885—

25. Where the allowance to which an assessor or collector of income tax and inhabited house duties is entitled by virtue of the Taxes Management Act, 1880, together with the allowance to which he is entitled by virtue of the Land Tax Acts, if he be also

assessor or collector of land tax, would exceed a sum which in the opinion of the Commissioners for the general purposes of the income tax and inhabited house duties for the division in which the assessor and collector acts, represents more than a fair remuneration for his trouble, the said Commissioners shall have power to fix the amount of such remuneration, and such amount shall be accepted by the assessor or collector in full satisfaction and discharge of his right to allowance under the Taxes Management Act, 1880, or the Land Tax Acts. And in no case shall the aggregate amount to be received by an assessor or collector, either by way of allowances under the said Act or Acts, or by way of remuneration fixed by the Commissioners, exceed the sum of one thousand pounds, exclusive of necessary office expenses.

The Taxes (Regulation of Remuneration) Act, 1891—

54 & 55 Vict. c. 13, s. 4. Allowance to collectors.

4. The collector of income tax and inhabited house duties for any area of collection shall, in lieu of the allowance or allowances which he would or might have received if this Act had not been passed, receive for his services such remuneration, not being less than the amount of the allowance or allowances to the collector for the year which commenced on the sixth day of April, 1890, as the Commissioners of Inland Revenue, with the approval of the Treasury, may direct, and the payment of such remuneration shall be made in such manner and under such regulations as the said Commissioners may prescribe.

Provided that, in the event of a change in any area of collection, the Commissioners of income tax and inhabited house duties for the division or district shall have power to adjust and apportion the amounts receivable under this section as they shall think fit.

54 & 55 Vict. c. 13, s. 5. Amendment of 43 & 44 Vict. c. 19.

5. The Taxes Management Act, 1880, shall be read, as respects the year commencing on the sixth day of April, 1891, and any subsequent year, as if the amount to be received by the collector under this Act were substituted for the allowances specified in clause three of the same schedule.

The Taxes (Regulation of Remuneration) Acts, 1891 and 1892—

54 & 55 Vict. c. 13, s. 6, and 55 & 56 Vict. c. 25, s. 1.

6. Nothing in this Act contained shall have any operation or effect in the case of an assessor or collector appointed to act in a division or district where the Commissioners of income tax and inhabited house duties have fixed or shall hereafter fix the amount of the remuneration of such assessor or collector under section twenty-five of the Customs and Inland Revenue Act, 1885.

As to the remuneration of a collector employed in the collection of income tax in a public department, see *ante*, p. 11.

Appointment of Collectors (Scotland).

43 & 44 Vict. c. 19, s. 81. Treasury to appoint.

The Taxes Management Act, 1880—

81.—(1.) The Treasury shall appoint the collectors of the land tax and of the duties in and for Scotland.

(2.) The Treasury may appoint distributors of stamps in Scotland, or any of them, or other persons to be collectors or other officers for collecting and receiving the land tax and the duties in Scotland and for such parts of Scotland as the Treasury may think fit.

Allowances.

(3.) Such salaries and allowances as the Treasury think fit shall be granted to such distributors or other persons who shall hold their respective offices during the will and pleasure of the Treasury or the Board.

Security.

(4.) Such distributors or other persons shall, before they act in the execution of their respective offices, give security to the satisfaction of the Board.

No liability to re-assessment.

(5.) No county or burgh in Scotland shall be liable for any deficiency in the collection of the land tax or the duties occasioned by the default of any collector appointed as aforesaid.

Return to Parliament.

(6.) If a person other than a distributor of stamps in Scotland is appointed to be collector or other officer as aforesaid, a return showing the name of such person, with his salary and allowances, shall be laid by the Treasury before Parliament within twenty-one days after the commencement of the session of Parliament which shall next follow every such appointment.

Interpretation.

(7.) In this section the term "distributor of stamps" includes "sub-distributor of stamps."

Savings.

(8.) With respect to any local taxes or assessments nothing in this section shall affect any right of the Commissioners of Supply to appoint collectors of such taxes or assessments, and when in any Act in regard thereto anything is required to be done by or any power is granted to the collectors of land tax, such thing may be done and such power may be exercised by the collectors of the said local taxes or assessments appointed by the Commissioners of Supply.

8. Appointment and Remuneration of Surveyors and Inspectors.

5 & 6 Vict. c. 35, s. 37. Officers for receipt of land tax and assessed taxes, and the inspectors

The Income Tax Act, 1842—

37. The officers for receipt of the land tax and assessed taxes appointed or to be appointed by the Treasury, or by the Commissioners of Inland Revenue, and the inspectors and

surveyors appointed or to be appointed in like manner for the duties of assessed taxes, shall be respectively officers for receipt and inspectors and surveyors of the duties granted by this Act; and the said Commissioners for general purposes, and the said additional Commissioners acting in the execution of this Act, and the said assessors and collectors, to be appointed as herein mentioned, and the said officers for receipt, and inspectors and surveyors respectively, shall be and they are hereby respectively empowered and required to do all things necessary for putting this Act in execution, with relation to the said duties hereby granted, in the like and in as full and ample a manner as any Commissioners, assessors, collectors, officers for receipt, surveyors, or inspectors are authorized to put in execution the said Acts relating to the said duties of assessed taxes, or any matter or thing therein contained, as well with respect to all acts, matters, and things to be done by, under, or before the said additional Commissioners, or by, under, or before the Commissioners for general purposes in their respective districts or departments, as by, under, and before the said Commissioners for special purposes.

and surveyors of assessed taxes, to act in the execution of this Act; and to have the like powers as under the assessed taxes.

Surveyors.

The Taxes Management Act, 1880—

43 & 44 Vict. c. 19, s. 17.

17. The Treasury may from time to time constitute and appoint officers for the survey and inspection of the duties and for doing all things belonging to the office of surveyor, according to the powers vested in them by this Act, the Tax Acts, or the Land Tax Acts, and may appoint allowances and salaries for the surveyors, and other officers employed as aforesaid, and also pay such incidental expenses as necessarily attend the execution of this Act and of the said Acts.

Treasury may appoint officers for survey and inspection;

and may pay incidental charges.

43 & 44 Vict. c. 19, s. 18.

18. If a surveyor wilfully makes a false and vexatious charge of the duties, or wilfully delivers or causes to be delivered to the General Commissioners a false and vexatious certificate of charge of the duties, or a false and vexatious certificate of objection to any supplementary return, or is guilty of any fraudulent, corrupt, or illegal practices in the execution of his office, or knowingly or wilfully, through favour, undercharges or omits to charge any person, such surveyor shall for every such offence incur a penalty of one hundred pounds, and on conviction be discharged from his office.

Vexatious charges.

9. Oaths to be taken by Officials.

5 & 6 Vict. c. 35, s. 38. Commissioners and others to take the oaths in Schedule (F.).

The Income Tax Act, 1842—

38. Every person appointed a Commissioner either for general or special purposes, or an additional Commissioner, or an assessor or collector, or a clerk or clerk's assistant to the said respective Commissioners, and every inspector, surveyor, and officer for receipt, shall, before he shall begin to act in the execution of this Act, so far as relates to the duties contained in Schedule (D.), take the oath prescribed by this Act, and contained in the Schedule marked (F.) (*a*) applicable to such officers respectively; which oath any one of the persons appointed a Commissioner, either for general or special purposes as aforesaid, or an additional Commissioner, is hereby authorized to administer (except that every such oath so to be administered to any Commissioner for general or special purposes as aforesaid, or to an additional Commissioner, shall be administered by a Commissioner for such general or special purposes, and not otherwise), and which oath so taken shall be subscribed by the party taking the same; and if any person shall act as a Commissioner in relation to the duties in Schedule (D.), except in administering the oath herein mentioned, or shall act as a clerk or clerk's assistant, or an assessor, collector, inspector, surveyor, or officer for receipt, in relation to the duties contained in the said Schedule (D.), before he shall have taken the oath herein required to be taken by such officer respectively, he shall forfeit the sum of one hundred pounds.

(*a*) See p. 459.

Part II.

PROCEDURE(*a*).

1. Preliminary.

The Income Tax Act, 1842—

5 & 6 Vict. c. 35, s. 3. The duties are to be assessed and raised under the Regulations of the Taxes Management Act, 1880.

3. The said duties hereby granted arising in England (*b*), Scotland, and Ireland shall be assessed, raised, levied, and collected under the regulations of the Taxes Management Act, 1880; and all the powers, authorities, methods, rules, directions, penalties, clauses, matters, and things now in force, contained in or enacted by the said Act, or any other Acts relating to the duties of assessed taxes shall severally and respectively be and become in full force and effect with respect to the duties hereby granted, and shall be severally and respectively duly observed, applied, practised, and put in execution throughout the respective parts of the United Kingdom, for raising, levying, collecting, receiving, accounting for, and securing of the said duties hereby granted, and for auditing the accounts thereof, and otherwise relating thereto, so far as the same shall not be superseded by and shall be consistent with the express provisions of this Act, as fully and effectually to all intents and purposes as if the same powers, authorities, methods, rules, directions, penalties, clauses, matters, and things were particularly repeated and re-enacted in the body of this Act with reference to the said duties hereby granted, and respectively applied to such parts of the United Kingdom as aforesaid; and all and every the regulations of such Acts (except as aforesaid) shall be applied, construed, deemed, and taken to refer to this Act, and to the duties hereby granted, in like manner as if the same had been enacted therein.

Under this section as it originally stood the duties were to be assessed, raised, levied, and collected under the regulations of certain previous Acts of Parliament. (See Appendix for the original section.)

(*a*) This includes only procedure of general application; procedure for particular schedules directed by the Income Tax Act, 1842, will be found under those schedules.

(*b*) England includes Wales and Berwick-upon-Tweed, see sect. 192, *post*, p. 337.

43 & 44 Vict. c. 19, s. 7. Substitution of the Taxes Management Act, 1880, for the Acts referred to in the section as it originally stood.

By the Taxes Management Act, 1880—

7.—(1.) In the several enactments described in the fourth Schedule to this Act, a reference to this Act shall be deemed to be substituted for a reference to any one or more of the enactments described in the third Schedule to this Act, or any enactment amending the same.

The Income Tax Act, 1842, and the Taxes Management Act, 1880, to be read together; when inconsistent the latter to prevail.

Now the previous Acts of Parliament above referred to are described in the third Schedule, and the Income Tax Act, 1842, is described in the fourth Schedule. Hence sect. 3 of the Income Tax Act, 1842, has to be amended as above.

It will be observed that sect. 3 enacts that the Acts therein referred to shall only apply when they are consistent with the Income Tax Act, 1842. Presumably this enactment is now obsolete and does not apply to the Taxes Management Act, but we have left it in the section as it is not expressly repealed. It is, of course, not acted on. The Taxes Management Act often supersedes and alters the Income Tax Act, 1842, and it has never been questioned that these alterations are operative. In future, the two Acts will be read together as far as possible, and when inconsistent the Taxes Management Act will be considered as the prevailing Act. (See also sect. 9 of the Taxes Management Act, *post*, p. 338.)

Definitions.

43 & 44 Vict. c. 19, s. 5 (1). Interpretation and construction of expressions.

The Taxes Management Act, 1880—

5.—(1.) In this Act—

"Additional Commissioners" means the Additional Commissioners of the Property and Income Tax, or any two of them appointed under the provisions of the Income Tax Act, 1842:

"Assessor" means the person or persons appointed to be assessor or assessors respectively of income tax and inhabited house duties for any parish in conformity with the rules and directions of this Act or the Tax Acts, and includes the surveyor of taxes acting as assessor when required so to act:

"Board" means the Commissioners of Inland Revenue for the time being, or any two of them:

"Clerk" means the clerk to the General Commissioners or to the Land Tax Commissioners respectively appointed in accordance with the directions of this Act:

"Collector" means the person or persons appointed to be collector or collectors respectively of the land tax, the income tax, and the inhabited house duties in conformity with this Act for a parish or group, or union, electoral district, or county or part of a county:

"Collector of Inland Revenue" means a person appointed by the Board to be a collector and officer for the collection and

receipt of the several revenues and duties of excise stamps and taxes, or as his deputy:

"Division" means and includes any hundred, rape, lathe, stewartry, or district, or any place of separate jurisdiction under the Land Tax Acts:

"General Commissioners" means the Commissioners for the general purposes of the income tax and inhabited house duties, or any two or more of them acting in or for any division under and in the execution of this Act or the Tax Acts:

"Group" means any parishes united or grouped for the purposes of the collection of the duties and the land tax:

"Land Tax Acts" means and includes any Act, or part of any Act, relating in any way to the assessment or redemption of the land tax:

"Land Tax Commissioners" means the persons appointed under authority of Parliament for executing the Acts granting a land tax, or any two or more of them:

"Parish" means and includes any town, ward, township, tithing, parish, place, or precinct for which a separate assessment of the duties or the land tax may be made, or for which any assessor or collector may be lawfully appointed for the purpose of assessing or collecting the duties or the land tax:

"Part" means part of this Act:

"Prescribed" means prescribed or provided by this Act or the Tax Acts, or by the Board where the Board have power to prescribe:

"Return" includes any list, statement, declaration, account, schedule, or estimate in writing by whomsoever made or from whomsoever required in conformity with the directions of this Act or the Tax Acts:

"Special Commissioners" means the Commissioners for the special purposes of the Income Tax Acts appointed by the Treasury under the provisions of the Income Tax Act, 1842:

"Surveyor" means an inspector of taxes or surveyor of taxes appointed by the Treasury or Board for the purposes of this Act, the Tax Acts, and Land Tax Acts, and acting under the authority of the Board:

"Tax Acts" means and includes any Act or part of any Act relating to the assessment of any person, land, tenement, heritage, property, or profits whatever to the income tax or to the inhabited house duties:

"The duties," except where expressly limited, means and includes the duties on inhabited houses and the duties of income tax or any of them, assessed or to be assessed under this Act or under the Tax Acts.

43 & 44 Vict. c. 19, s. 13. Officers to obey directions of the Board.

13. The collectors of inland revenue, surveyors, and all other officers or persons who shall be employed in the execution of this Act, or the Tax Acts, shall observe and follow the orders, instructions, and directions of the Board.

5 & 6 Vict. c. 35, s. 22. The General Commissioners are to execute all matters with respect to the duties under all the schedules, except such as are directed to be executed by the Special or Additional Commissioners.

The Income Tax Act, 1842—

22. The Commissioners for general purposes shall execute this Act in all matters and things relating to the duties in Schedules (A.) and (B.) of this Act, except such allowances in respect thereof as are directed to be made in Number VI. of Schedule (A.) by other Commissioners for special purposes as hereinafter mentioned, and also all matters and things relating to the duties in Schedule (D.) of this Act, except in cases where such matters and things are herein directed to be done by the said Commissioners for special purposes, or by the additional Commissioners, or persons acting as such; and the said Commissioners for general purposes shall also execute this Act in all matters and things relating to the duties in Schedule (E.) not executed by the Commissioners authorized to be appointed for those duties: provided always, that nothing herein contained shall be construed to preclude any person chosen a Commissioner for general purposes from acting as such by reason of his acting or having acted as an additional Commissioner, except only in the hearing and determining of Appeals against or relating to such particular assessments wherein he shall have made an assessment as such additional Commissioner.

The Lord President in 1887, *Smiles* v. *Northern Investment Company of New Zealand*, 14 Scotch Sess. Cas. 4th Series, 734; 24 S. L. R. 530; 2 Tax Cas. 165.

Functions of the General Commissioners.

"These General Commissioners are charged with quasi-judicial functions, and have to determine whether any assessment is well laid on when it is objected to by the party assessed, and accordingly the statute says that whatever may be the determination of the Commissioners, whether it be favourable to the one party or the other, an appeal lies. The Commissioners have no discretion; they have simply to determine the question in dispute between the parties. That is their only function. What they had to determine here was whether this company, which derives a large revenue from foreign and colonial investments, and which receives that revenue in this country, is liable to assessment under the fourth case of Schedule (D.)."—The Lord President, in *Smiles* v. *Northern Investment Company of New Zealand*.

5 & 6 Vict. c. 35, s. 18. Newly ap-

18. Whenever a new appointment of Commissioners shall take place they shall execute this Act as well with respect to the duties

which shall not but which ought to have been assessed in any former year, and with respect to arrears of duties assessed in any former year under this Act, as to the assessments to be made in such year in which they shall be appointed, and shall have the like powers to assess, levy, and collect such duties and arrears as they have to assess, levy, and collect the duties assessed by them; for all which acts such appointment shall be a sufficient authority, subject to the regulations of this Act.

pointed Commissioners may assess and levy for former years.

Meetings.

The Taxes Management Act, 1880, Part III. (*a*)—

43 & 44 Vict. c. 19, s. 26.

26.—(1.) The Land Tax Commissioners, General Commissioners, and Additional Commissioners respectively shall, for the execution of all or any such things as are by them required to be done at a meeting by this Act, the Tax Acts, or the Land Tax Acts, meet together from time to time within the times prescribed by this Act or the said Acts at the most usual place of meeting within their respective divisions.

Commissioners to meet from time to time;

(2.) They may meet and do any act in execution of the said Acts as Commissioners within any city, town, or place, being a county of itself, or otherwise having exclusive jurisdiction and situated within, surrounded by, or adjoining to their respective divisions; and all things so done by them within such city, town, or place, as Commissioners acting for such division, shall be as valid and effectual in law as if the same had been done within such division.

may meet within an adjoining place if exclusive jurisdiction.

(*a*) Part III., sects. 26—47, do not extend to Ireland. The Taxes Management Act, 1880, s. 25.

43 & 44 Vict. c. 19, s. 25.

The Revenue Act, 1883—

46 & 47 Vict. c. 55, s. 12.

12. In addition to the power given to the Land Tax Commissioners, General Commissioners, and Additional Commissioners by sub-section two of section twenty-six of the Taxes Management Act, 1880, to meet and act within such city, town, or place as therein mentioned, the said Commissioners respectively may, with the consent of the Board of Inland Revenue, meet for the purpose of acting as such Commissioners at any place outside the boundary of the division for which they act, and all things done by them, as Commissioners acting for such division at that place, shall be as valid and effectual in law as if the same had been done at a place of meeting within the division.

Extension of 43 & 44 Vict. c. 19, s. 26, as to places of meeting of Commissioners.

Commissioners.

The Taxes Management Act, 1880, Part III. (*a*)—

43 & 44 Vict. c. 19, s. 29. The execution of Acts by the Commissioners shall be valid, though not within the prescribed times.

29. Should the Commissioners fail to hold any meeting or to appoint a clerk, assessor, or other officer, or to do any other thing in the execution of this Act or of the Tax or Land Tax Acts within the time prescribed, they shall, as soon as may be after the time at which such meeting should have been held and such power should have been executed, meet and execute the same and cause the same to be executed, and all such meetings and appointments (excepting in any case in which the appointment of collector by reason of neglect or omission or otherwise became absolutely vested in the Board), and the performance of any such other thing as aforesaid at any other time than the prescribed time shall, notwithstanding such failure, be valid and effectual.

43 & 44 Vict. c. 19, s. 25.

(*a*) Part III., sects. 26—47, do not apply to Ireland. The Taxes Management Act, 1880, s. 25.

43 & 44 Vict. c. 19, s. 30. On failure of the General Commissioners, those in the same county may sign and allow the assessments.

30. If in any case the assessments and duplicates of the duties for any parish are not signed and allowed in due time, to the prejudice of the Revenue, for want of a sufficient number of General Commissioners acting or attending where and when such assessments or duplicates ought to be allowed, any two of the General Commissioners acting within the same county shall sign and allow the assessments or duplicates wanting for the parish.

43 & 44 Vict. c. 19, s. 31. Execution of warrants.

31. All warrants and precepts of the General Commissioners shall be executed by the respective persons to whom the same are directed, in any part of the same county, for any division of which the Commissioners are appointed.

43 & 44 Vict. c. 19, s. 32. Administration of oaths.

32. Any one or more of the Land Tax Commissioners and General Commissioners may respectively administer all oaths or affirmations required or allowed to be taken by this Act or by the Land Tax Acts or Tax Acts before such Commissioners by any officer or person in any matter touching the execution of this Act or the said Acts.

43 & 44 Vict. c. 19, s. 33. The books of assessment are the property of the General Commissioners.

33. All assessments, duplicates of assessments, minute books, and other public books and papers relating to the land tax or the duties in the custody or possession of any clerk, assessor, or collector, or of the legal representatives of any person who has died or shall die during the holding of any such office, or after his removal from the

same, or of his agent or attorney, or of any other person, are hereby declared to be respectively the property of the Land Tax Commissioners and General Commissioners acting in the respective divisions for the time being and in succession, and shall be placed with and remain in the custody and possession of them or of their respective clerks for the time being, or of such other person as the respective Commissioners for the time being from time to time at their meetings direct.

43 & 44 Vict. c. 19, s. 34. Any person having papers relating to the Income Tax shall, on notice from the Board, deliver them up;

34.—(1.) Every person now or at any time hereafter having in his custody or possession any books or papers relating to the land tax or the duties shall, within one month next after notice in writing by the Board (a true copy thereof being given to or left at his usual place of abode), deliver up the same to such person as the Board by such notice shall appoint, whose receipt for the same shall be a good and sufficient discharge to the person delivering the same; and

penalty in default 50*l.*

(2.) If any such person fails to deliver the same according to the notice, he shall for every such offence incur a penalty of fifty pounds.

43 & 44 Vict. c. 19, s. 35. Commissioners concerned are to have no voice in controversies; penalty for so doing 50*l.*

35. If a Commissioner acting in the execution of the Tax Acts or the Land Tax Acts interested, in his own right, or in the right of any other person as his agent, in any controversy or appeal arising under those Acts or this Act takes part in the determination of such controversy or appeal and fails to withdraw himself from the meeting of Commissioners at which the same is heard and determined, he shall incur a penalty of fifty pounds.

The Income Tax Act, 1842—

5 & 6 Vict. c. 35, s. 191. What number of Commissioners competent to execute any of the powers given by this Act.

191. Wherever any order, consent, authority, or direction of the Treasury is prescribed or required by this Act, every such order, consent, authority, and direction may be signified under the hand of one of their secretaries or assistant secretaries; and wherever any of the powers and authorities given by this Act are required or directed to be put in execution, or any assessment, warrant, order, precept, notice, certificate, contract of composition, or other document is by this Act or any Act herein recited or referred to is required or directed to be made, signed, or issued by the Commissioners for general purposes, or the additional Commissioners, or the Commissioners for special purposes, or the Commissioners for Inland Revenue, or any other Commissioners acting in the execution of this Act, every such power and authority shall and may

lawfully be put in execution, and every such assessment, warrant, order, precept, notice, certificate, contract, or other document shall and may lawfully be made, signed, and issued respectively by any two or more of the said respective Commissioners; provided that where any act, matter, or thing is directed or authorized to be done or performed by or before one of such respective Commissioners, such act, matter, or thing may lawfully be done or performed by or before such one Commissioner, anything herein contained notwithstanding.

Parishes.

47 & 48 Vict. c. 62, s. 6.

The Revenue Act, 1884—

The poor law parishes in England are to be parishes for the purposes of the Income Tax.

6.—(1.) The parishes or places for the time being existing for the purposes of poor law administration in England, elsewhere than in the Metropolis, as defined by the Valuation (Metropolis) Act, 1869, shall, after the 5th day of April, 1885, and in the said Metropolis elsewhere than in the city of London shall, after the 5th day of April, 1886, be the parishes and places for which the assessments of the duties of income tax and of the duties on inhabited houses shall be made, and for which assessors and collectors shall be appointed for the purposes of assessing and collecting the said duties.

In the case of a parish within the jurisdiction of two separate bodies of Commissioners, the Board shall determine which body shall have the jurisdiction.

(2.) In case any parish or place shall be partly in the jurisdiction of one body of General Commissioners and partly in the jurisdiction of another body, or other bodies, of General Commissioners, the Board of Inland Revenue shall, by order in writing, determine which of the two or several bodies of General Commissioners shall have the jurisdiction, and the whole of the parish or place shall be within such jurisdiction accordingly.

The Board may divide a parish into districts, which are to be treated as separate parishes.

(3.) If the Board of Inland Revenue shall at any time be of opinion that any parish or place is so large that for the sake of convenience it ought to be divided into districts for which separate assessors and collectors should be appointed, the Board may, with the sanction of the Commissioners of her Majesty's Treasury, certify in writing to the General Commissioners in whose jurisdiction the parish or place is, that the same shall be divided into the districts specified in the certificate at the time therein mentioned, and at and after that time each of such districts shall be treated as a parish or place for which a separate assessment of the said duties is to be made, and assessors and collectors are to be appointed.

(4.) Any such division may be at any time altered or annulled by the Board, with the sanction of the Commissioners of the

Treasury, upon a certificate to that effect sent to the said General Commissioners.

(5.) The union or grouping of parishes or places existing in conformity with law for the purposes of taxes or the collection thereof shall, subject to the powers for the dissolution of such union or grouping, continue in force so far as the same can so continue consistently with the provisions of this section, and the powers in relation to the union or grouping of parishes contained in the Taxes Management Act, 1880, shall remain in full force and effect so far as the same are capable of being exercised consistently with such provisions.

The union or grouping of parishes to continue in force.

The Customs and Inland Revenue Act, 1890— 53 & 54 Vict. c. 8, s. 27.

27. . . . .

(a) Section 6 of the Revenue Act, 1884, shall be read as if the Inner Temple, Middle Temple, Lincoln's Inn, Gray's Inn, and Inns (*a*) of Chancery thereunto respectively belonging, had been excluded from its operation.

(b) Sub-section (2) of the section shall not apply to the parish of Lambeth, in the county of London, but that parish shall, for the purposes of the duties of income tax . . . and the collection thereof, be divided into the two parts for which separate jurisdictions existed on the 5th day of April, 1886, and each of those parts shall for these purposes be deemed to be a parish or place, and shall be within the jurisdiction of the General Commissioners who had on that day jurisdiction therein.

(*a*) Serjeant's Inn is subject to the jurisdiction of the Commissioners acting for the City of London. See the Customs and Inland Revenue Act, 1878, s. 16. 41 & 42 Vict. c. 15, s. 16.

Poor Law Parishes.

The Taxes Management Act, 1880— 43 & 44 Vict. c. 19, s. 38.

38.—(1.) Where in England, under the authority of Parliament, any part of a parish or place has been formed into a new parish or place for the purposes of poor law administration, or any parish or place, or part of a parish or place, has been amalgamated with or included within the boundaries of another parish or place for the said purposes, the Board may, if they think fit, by order in writing, direct that such new parish or place, or such parish or place with which or within the boundaries of which any parish or place, or part of a parish or place, has been amalgamated or included, shall

New parishes and parishes amalgamated for poor law purposes may, by order of the Board, be made parishes for Income Tax purposes.

be a parish for which a separate assessment of the duties shall be made, and for which assessors and collectors may be appointed for the purpose of assessing and collecting the said duties.

(2.) In case any parish or place or part of a parish or place in the jurisdiction of one body of General Commissioners is amalgamated with or included within the boundaries of a parish or place in the jurisdiction of another body of General Commissioners, such order shall have the effect of transferring the jurisdiction to such last-named body.

46 & 47 Vict. c. 55, s. 13. Extended to cases not included in s. 38 of the Taxes Management Act.

The Revenue Act, 1883—

13. The power vested in the Board of Inland Revenue by section 38 of the Taxes Management Act, 1880, may be exercised in any case in England where any new parish or place has been or may be formed for the purposes of poor law administration, or any amalgamation in relation to parishes or parts of parishes has been or may be effected for such purposes. In any case of amalgamation where the transfer of jurisdiction is not provided for by sub-section (2) of the said section 38, amalgamated parishes or parts of parishes shall be within the jurisdiction of such body of General Commissioners as shall be determined by the Board and specified in the order in writing containing the direction of the Board as to the amalgamation in conformity with sub-section one of the said section.

Transfer of Parishes.

43 & 44 Vict. c. 19, s. 36. Parishes may be transferred by the Land Tax Commissioners;

The Taxes Management Act, 1880, Part III.—

36.—(1.) In England the Land Tax Commissioners may, at a general meeting for any county, if and as they see fit (subject as herein provided), transfer the jurisdiction of any parish in such county from the division to which the same may then belong, together with the quota of land tax payable by it at the time of such transfer to any adjoining or other division of the same county, or to any new division, which new division the Commissioners are hereby empowered to create in any such county.

subject to the approval of the Treasury.

(2.) Every such alteration of divisions shall be certified in writing under the hands of the majority of the Commissioners present at such general meeting to the Board, and shall be subject to and dependent on the approval of the Treasury.

(3.) If the Treasury approves of such alteration, such approval, together with the quotas to be assessed and levied on the parishes so transferred, shall be certified to the Commissioners of the respective divisions by the Board.

(4.) Thereupon, and from the time fixed by the Board, the Land Tax Commissioners and General Commissioners acting in and for the division extended or created in manner aforesaid shall have full jurisdiction and control in, over, and throughout every parish so transferred, and shall and may execute all the powers and provisions of the Tax Acts, Land Tax Acts, and this Act in and throughout the same.

(5.) Nothing in this section shall authorize any alteration of the limits or jurisdiction of any of the cities, boroughs, cinque ports, towns, and places respectively in Great Britain for which separate and distinct quotas of land tax are provided by and enumerated in the Land Tax Acts.

Union of Parishes.

37.—(1.) For the more convenient execution of the Tax Acts and Land Tax Acts in England the Land Tax Commissioners for any division, at any meeting of such Commissioners convened for that purpose, may unite any two or more parishes, and certify such union to the Board, for the approval of the Treasury.

43 & 44 Vict. c. 19, s. 37. The Land Tax Commissioners, with the approval of the Treasury, may unite parishes.

(2.) If the Treasury approves of such union, such approval shall be certified by the Board to the Commissioners.

(3.) Thereupon, and from the time fixed by the Board, such united parishes shall, for all the purposes of the land tax and the duties, be considered as one parish.

(4.) Nothing in this section shall authorize any alteration of the quota of land tax now chargeable by law on any parish.

(5.) Where parishes have been so united and the union proves to be inconvenient, the Treasury, on receipt of a resolution of the Land Tax Commissioners acting for the division in which the parishes are situate, passed at a meeting convened for the purpose, may, if they think fit, dissolve the union either as regards all or some or one of the parishes so united.

If inconvenient the union may be dissolved.

The Assessment of Taxes Act, 1808—

48 Geo. 3, c. 141. Certain places shall be assessed according to annexed schedule.

12. Provided always, and be it further enacted, that the several parishes and places, or parts of parishes or places, set down in the first column of the following schedule, and which have been heretofore charged to the said respective duties or either of them, in the respective divisions mentioned in the second column of the said schedule, and set opposite thereto respectively, shall, from and after the passing of this Act, be charged to the said respective

duties in the divisions; and shall be subject to the jurisdiction of the Commissioners, and persons acting under them, and to the inspectors and surveyors of the division mentioned in the third column of the said schedule, and set opposite thereto respectively.

SCHEDULE referred to by the above clause.

Description of Parishes or Places.	Heretofore charged in.	Hereafter to be charged in.
Part of the parishes of Wokington, situate in the counties of Berks and Wilts.	Hundred of Amesbury, Wiltshire.	Hundred of Sonning, Berkshire.
Part of the parish and town of Morpeth, in the county of Northumberland.	Castleward, Northumberland.	Morpeth Ward, Northumberland.
Part of the parish of Gillingham, in the county of Kent, called The Grange, parcel of the liberty of Hastings, in the county of Sussex.	Town and port of Hastings, county of Sussex, and liberty thereof.	Rochester Division, part of the lathe of Ford, county of Kent.
Bushton, part of the parish of Cleeve Pyhard, in the county of Wilts.	Hundred of Elsted and Everley, Wiltshire.	Hundred of Kingsbridge, Wiltshire.
Little Hinton, in the county of Wilts.	The same.	The same.
Wroughton, in the county of Wilts.	The same.	The same.

5 & 6 Vict. c. 37, s. 3. Detached parishes and places described in Schedule (A.) transferred to the jurisdiction of Commissioners of Land and Assessed Taxes for the counties in or near to which they are locally situate.

The Land Tax Act, 1842—

3 (*a*). The several parishes and places, and parts of parishes and places, described in the schedule marked (A.) to this Act annexed, shall in all matters and things relating to the assessing, charging, raising, and levying of the land tax, and the duties of assessed taxes, and also the duties on profits arising from property, professions, trades, and offices, be under and subject to the jurisdiction and authority of the Commissioners appointed or to be appointed for putting in execution the Acts relating to the said land tax, and to the said duties respectively, in and for the several counties, ridings or shires which are respectively mentioned in the fourth column of the said schedule, in conjunction with the names or descriptions of such detached parishes or places, or parts thereof respectively; and in all other similar cases for which no special provision is hereby made, it shall be lawful for the Commissioners

Power given to Commissioners of In-

of Inland Revenue to order and direct that in all such matters and things as aforesaid any such detached parish or place, or part of a parish or place, as aforesaid, shall be under and subject to the jurisdiction and authority of the Commissioners appointed or to be appointed for putting in execution the said Acts in and for such county, riding, or shire adjoining or near to such detached parish or place, or part thereof as the said Commissioners of Inland Revenue shall name in that behalf.

Land Revenue to transfer the jurisdiction over similar detached parishes and places in cases not specially provided for.

(*a*) The alteration is made in accordance with the Statute Law Revision (No. 2) Act, 1890. 53 & 54 Vict. c. 51.

4 (*a*). The Commissioners under whose jurisdiction or authority any such detached parish or place, or part thereof, as aforesaid, is or may be placed by or in pursuance of this Act, shall have full power, and they are hereby authorized to execute and put in force the several Acts aforesaid, and the several powers and provisions thereof for the assessing, charging, levying, and enforcing payment of the land tax, and the several duties aforesaid, and otherwise relating thereto, in and throughout any such parish or place, or part of a parish or place as aforesaid, in as full and ample a manner as the said Commissioners are or may be authorized to execute the said Acts, or any of them, within the county, riding, or shire for which they have been or may be appointed; anything in any former Act contained, or any usage or practice, to the contrary notwithstanding.

5 & 6 Vict. c. 37, s. 4. Commissioners to whose jurisdiction such parishes are transferred to have full power to execute therein the Acts relating to the Land Tax, Assessed Taxes, and Property Tax.

(*a*) The alterations are made in accordance with the Statute Law Revision (No. 2) Act, 1888. 51 & 52 Vict. c. 57.

5. Provided always (*a*), that it shall be lawful for the Commissioners of Inland Revenue to order and direct that any such detached parish or place, or part of a parish or place, as aforesaid, shall be added to any adjoining or other division or divisions, or be formed into one or more new division or divisions, as the said last-mentioned Commissioners shall think fit.

5 & 6 Vict. c. 37, s. 5. Commissioners of Inland Revenue to direct parishes to be added to adjoining or formed into new divisions.

(*a*) The alterations are made in accordance with the Statute Law Revision (No. 2) Act, 1888. 51 & 52 Vict. c. 57.

5 & 6 Vict. c. 37, Sched.

SCHEDULE (A.) to which this Act refers.

Description of Detached Parishes or Places, or Parts of Parishes or Places.	Counties to which they belong.	Counties in which they are locally situate.	Counties, the Commissioners for which are to have Jurisdiction over such Detached Parishes, Places or Parts.
Part of Shilton parish	Berkshire	Oxfordshire	Oxfordshire.
Eye, commonly called Sonning Eye, and Dunsden, hamlets in Sonning parish.	Ditto	Ditto	Ditto.
Caversfield parish	Buckingham-shire.	Ditto	Ditto.
Part of Maker parish, in the tything of Vaultersholme.	Devonshire ..	Cornwall	Devonshire.
Stockland parish	Dorsetshire ..	Devonshire	Ditto.
Dallwood township	Ditto	Ditto	Ditto.
The district of Northamshire ..	Durham	Northumberland.	Northumber-land.
The district of Islandshire, including the Farne Island and Monkhouse.	Ditto	Ditto	Ditto.
The parish of Bedlington or Bedlingtonshire.	Ditto	Ditto	Ditto.
Minety parish	Gloucester-shire.	Wiltshire	Wiltshire.
Shennington parish	Ditto	Oxfordshire	Oxfordshire.
Farloe Chapelry	Herefordshire.	Shropshire	Shropshire.
Rochford Parish	Ditto	Worcestershire ..	Worcester-shire.
Litton and Cascob township ..	Ditto	Radnorshire	Radnorshire.
Part of Coleshill hamlet	Hertfordshire.	Buckinghamshire.	Buckingham-shire.
Part of Everton parish	Huntingdon-shire.	Between Bedford-shire and Cam-bridgeshire.	Bedfordshire.
Welsh Bicknor parish	Monmouth-shire.	Herefordshire....	Herefordshire.
Boycot township	Oxfordshire ..	Buckinghamshire.	Buckingham-shire.
Lillingston Lovell parish.....	Ditto	Ditto	Ditto.
Part of Hales Owen parish	Shropshire ..	Bounded by Wor-cestershire and Staffordshire.	Worcester-shire.
Holwell parish, including Buckshaw tything.	Somersetshire.	Dorsetshire.....	Dorsetshire.
North Ambersham and South Ambersham tythings, in the parish of Steep.	Hampshire ..	Sussex	Sussex.
Broom parish	Staffordshire.	Worcestershire ..	Worcester-shire.
Clent parish	Ditto	Ditto	Ditto.
Tutnal and Cobley hamlet	Warwickshire.	Ditto	Ditto.
Stretton-upon-Foss parish, Ilmington parish, Compton Scorpion hamlet, Whitchurch parish, Ditchford hamlet.	Ditto	Between parts of Worcestershire and Gloucester-shire.	Ditto.
Part of Wokingham parish....	Wiltshire	Berkshire	Berkshire.
Hinton tything in Hurst parish	Ditto	Ditto	Ditto.
Didnam tything in Shinfield parish.	Ditto	Ditto	Ditto.
Swallowfield parish	Ditto	Ditto	Ditto.
Kingswood parish.....	Ditto	Gloucestershire ..	Gloucester-shire.
Poulton parish	Ditto	Ditto	Ditto.

Description of Detached Parishes or Places, or Parts of Parishes or Places.	Counties to which they belong.	Counties in which they are locally situate.	Counties, the Commissioners for which are to have Jurisdiction over such Detached Parishes, Places or Parts.
Iccomb parish	Worcestershire.	Between Gloucestershire and Oxfordshire.	Gloucestershire.
Dailsford parish	Ditto	Oxfordshire	Ditto.
Oldborough parish	Ditto	Warwickshire ..	Warwickshire.
Edwin Loach parish.....	Ditto	Herefordshire ..	Herefordshire.
WALES.			
Carregovah township	Denbighshire.	Between Shropshire and Montgomeryshire.	Montgomeryshire.
Part of Glasbury parish	Brecknockshire.	Brecknockshire or Radnorshire.	Brecknockshire.

The Revenue Act, 1903—

3 Edw. 7, c. 46.

Provision as to property in Scotland on the boundary of General Tax Commissioners' areas.

12. Where any lands and heritages in Scotland are partly in the jurisdiction of one body of General Commissioners and partly in the jurisdiction of another, or where it is desirable for the convenience of assessment to transfer any lands and heritages from the jurisdiction of one body of General Commissioners to the jurisdiction of another such body, the Commissioners of Inland Revenue, at the request of the General Commissioners concerned, shall, by order in writing, determine which body of General Commissioners shall have the jurisdiction, and the whole lands and heritages aforesaid shall be within such jurisdiction accordingly.

Parochial Books.

The Taxes Management Act, 1880—

43 & 44 Vict. c. 19, s. 39.

Power to inspect parish books.

39. The Land Tax and General Commissioners, surveyors, and assessors, or any person authorized by them, or any of them, shall have liberty from time to time and at all seasonable times to inspect and to take copies or extracts from any book kept by any parish officer or other person of or concerning the rates made for the relief of the poor, or any other public taxes, rates, or assessments, or any contributions under the management of the kirk sessions in any place within the limits for which they shall be appointed; and if any person in whose custody or power any of the said books shall be fails to permit the said inspection, or the copies or extracts to be made as aforesaid, or to attend the said

Commissioners with such books when required so to do, he shall for every such offence incur a penalty of ten pounds.

This section does not apply to Ireland: see p. 44.

This concludes our preliminary regulations as to procedure generally, and we shall now proceed to the procedure to assessment.

2. Assessment.

Notices, Lists, Statements, &c.

5 & 6 Vict. c. 35, s. 46. The General Commissioners are to summon the assessors; they are to administer to them the oath required by the Act, and to issue to them warrants of appointment and instructions.

The Income Tax Act, 1842—

46. For the ordering, raising, and levying the said duties the respective Commissioners for General Purposes at the first meeting to be held under this Act, or at a meeting to be appointed for that purpose, shall direct their precepts to such persons as shall have been appointed assessors for the execution of this Act, or in case no such appointment shall have been made, then to the assessors for the land tax or the duties of assessed taxes in their respective districts, requiring them to appear before the said Commissioners at such time and place as they shall appoint; and on the appearance of such assessors the said Commissioners shall administer to them the oath required by this Act (*a*) to be taken by them, and issue to them their warrants of appointment as assessors in the execution of this Act, signed by such Commissioners, together with such instructions duly filled up as shall be necessary for carrying this Act into execution; and the said assessors shall duly serve and deliver, in the respective parishes or places for which they may be appointed, as well the notices hereinafter particularly directed to be served by them, as also all other notices and precepts, by whomsoever signed, which are or may be directed or required to be given by or in pursuance of this Act; and the said assessors shall duly verify (*b*) the service of all such notices and precepts.

The assessors shall serve the notices, &c. required by the Act.

(*a*) Sect. 38 and Sched. (F.), pp. 38 and 459.
(*b*) See sect. 58, p. 63.

5 & 6 Vict. c. 35, s. 47. The assessors shall fix general notices on church doors, &c., requiring all persons who are required so to do by this Act to make out and deliver lists,

47. The assessors to be appointed to execute this Act shall, within the time and in the manner directed by the precept of the Commissioners for General Purposes, cause general notices to be affixed on or near to the door of the church or chapel and market house or cross (if any) of the city, town, parish, or place for which such assessors act; and if such city, town, parish, or place shall not have a church or chapel, or market house or cross, then on the church or chapel nearest to such city, town, parish, or place, requiring all persons who are by this Act

required to make out and deliver any list, declaration, or statement (*a*) to make out and deliver to the respective assessors or Commissioners, or to their clerk, at their respective offices to be described in such notice, and as therein directed, all such lists, declarations and statements accordingly, within such time as shall be limited by such precept, and which shall not in any case be later than twenty-one days from the date of such precept; and such general notices shall, when the same shall be affixed as aforesaid, be deemed sufficient notice to all persons resident in such city, town, parish, or place, and the affixing of the same in manner aforesaid shall be deemed good service of such notice; and the said respective assessors shall cause the said notices to be from time to time replaced, if necessary, for the space of ten days, before the time required for the delivery of such lists, declarations, and statements as aforesaid; and every person wilfully tearing, defacing, or obliterating any such notice so affixed shall forfeit any sum not exceeding twenty pounds.

&c. within the time limited by the precept of the General Commissioners, which shall not exceed twenty-one days.

(*a*) See, particularly, sect. 52 and Sched. (G.) for the subject-matter of statements, &c., pp. 58 and 461.

48. Provided always, that the said assessors shall, within the time directed by the precept of the said Commissioners, give notice to every person chargeable to the said duties in respect of any property or profits situate or arising within the limits of the said places where such assessors shall act, or leave such notice at his dwelling-house or place of residence, or on the premises to be charged by such assessment within such limits, requiring every such person to prepare and deliver, in manner directed by this Act, all such lists, declarations, and statements (*a*) as they are respectively required to do by this Act, within such time as shall be limited by such precept; and if any person residing within any parish or place at the time such general notice as aforesaid shall be given, or to whom such notice shall be personally given, or at whose dwelling-house or place of residence the same shall be left, or if any person occupying any property or engaged in any concern within such limits, on whom such notice shall be served in manner aforesaid, or for whom such notice shall be left on the premises to be charged as aforesaid, after notice thereof, shall refuse or neglect to make out such lists, declarations, or statements as may be applicable to such person, and as the case may require, and deliver the same in manner directed by this Act, within the time limited in such notice, then such Commissioners shall forthwith issue a summons under their hands to such person making default as aforesaid, in order that the penalty (*b*) for such refusal or neglect

5 & 6 Vict. c. 35, s. 48. The assessors shall give notice to every person chargeable in respect of property or profits within their district to prepare and deliver statements, &c. as required by this Act. If such person fails to do so the Commissioners shall summon him in order to levy the penalty, and shall assess him in manner herein directed.

may be duly levied; and the said Commissioners shall moreover proceed to assess or cause to be assessed every person making such default in the manner herein directed.

(*a*) See, particularly, sect. 52 and Sched. (G.) for the subject-matter of statements, &c., pp. 58 and 461.
(*b*) See sect. 55, p. 61.

5 & 6 Vict. c. 35, s. 49. The lists and statements of profits shall be delivered to the assessors, except statements under Schedule (D.) where the Commissioners have appointed a proper person to receive the same.

49. Every such list, declaration, or statement (*a*) of the profits to be charged as aforesaid shall be delivered to the assessor of the same parish or place, except statements containing the amount of profits chargeable under Schedule (D.) of this Act, in such cases where the Commissioners acting for such parish or place shall have caused to be inserted in the notice that an office is opened for the receipt of statements of profits, and a proper person appointed to receive the same, and the time and place of attendance, in which cases the delivery of such statements to be charged under the said Schedule (D.) shall be made at such office to the person there appointed to receive the same: Provided always, that in cases where the parties to be charged under the said Schedule (D.) shall give notice of their desire (*b*) to be assessed for the said duties by the Commissioners for Special Purposes, such statements of profits chargeable under the said Schedule (D.) shall be delivered, together with such notice, to such assessor as aforesaid, to be by him transmitted to the inspector or surveyor of the district.

(*a*) See, particularly, sect. 52 and Sched. (G.) for the subject-matter of statements, &c., pp. 58 and 461.
(*b*) See sect. 131, p. 295.

5 & 6 Vict. c. 35, s. 50. Every person required to do so by notice under this Act shall deliver to the assessor a list of lodgers or inmates of his dwelling-house and of persons in his service.

50. Every person, when required so to do by any notice given in pursuance of this Act, shall, within the period to be mentioned in such notice, prepare and deliver to the assessor of the parish or place where such person shall reside a list in writing, containing to the best of his belief the proper name of every lodger or inmate resident in his dwelling-house, and of other persons chiefly employed in his service, whether resident in such dwelling-house or not, and the place of residence of such of them as are not resident in such dwelling-house, and also of any such lodger or inmate who shall have any ordinary place of residence elsewhere at which he is entitled, under the regulations of this Act, to be assessed, who shall be desirous of being so assessed at such place of ordinary residence; which lists shall be signed by the respective parties delivering the same, and shall severally be made out in such form as shall be directed under the authority of this Act: Provided always, that no person required by this Act to deliver a list of

lodgers, inmates, or other persons aforesaid shall be liable to the penalties (*a*) hereinafter mentioned, or either of them, for any omission of the name or residence of any person in his service or employ, and not resident in his dwelling-house, if it shall appear to the Commissioners for executing this Act, on inquiry before them, that such person is entitled to be exempted from the payment of all and every the duties hereby granted.

(*a*) See sect. 55, p. 61.

The Finance Act, 1907—

7 Edw. 7, c. 13, s. 21 (1). Particulars to be given by employers.

21.—(1.) Every employer, when required to do so by notice from an assessor, shall, within the time limited by the notice, prepare and deliver to the assessor a return of the names and places of residence of any persons employed by him, to whom this provision applies, and of the payments made to those persons in respect of that employment, and section fifty-five of the Income Tax Act, 1842, shall apply with respect to any such return as it applies with respect to the lists, declarations, or statements mentioned in that provision.

5 & 6 Vict. c. 35.

This provision applies to all persons employed by an employer, except persons who are not employed in any other employment, and whose remuneration in the employment for the year does not exceed the sum for the time being fixed as the limit for total exemption from income tax.

(2.) Where the employer is a body of persons, corporate or unincorporate (including a company), the secretary of the body, or other officer (by whatever name called) performing the duties of secretary, shall be deemed to be the employer for the purposes of this provision, and any director of a company, or person engaged in the management of a company shall be deemed to be a person employed.

The Income Tax Act, 1842—

5 & 6 Vict. c. 35, s. 51. Persons acting for others shall deliver statements of profits for them, together with a declaration, as to whether the person is of full age, or a married woman, or an infant, idiot, lunatic, or insane person.

51. Every person who shall be in the receipt of any money or value, or the profits or gains arising from any of the sources mentioned in this Act, of or belonging to any other person, in whatever character the same shall be received, for which such other person is chargeable under the regulations of this Act, or would be so chargeable if he were resident in the United Kingdom, shall within the like period prepare and deliver, in manner before directed, a list in writing, in such form as this Act requires, signed by him, containing a true and correct statement of all such money, value, profits, or gains, and the name and place of abode of every person to whom the same shall belong, together with a declaration

whether such person is of full age, or a married woman living with her husband (*a*), or a married woman for whose payment of the duty hereby charged on her the husband is not accountable by this Act, or resident in the United Kingdom, or an infant, idiot, lunatic, or insane person, in order that such person, according to a statement, to be delivered as herein mentioned, may be charged, either in the name of the person delivering such list, if the same shall be so chargeable, or in the name of the person to whom such property shall belong, if of full age, and resident in the United Kingdom, and the same be so chargeable by this Act; and every person acting in such character jointly with any other person shall deliver a list of the names and places of abode of every person joined with him at the time of delivering such list, and to the same person to whom such list shall be delivered.

(*a*) See sect. 45, p. 328.

1906. *Lord Advocate* v. *Hugh Gibb*, 5 Tax Cas. 194; 43 S. L. R. 674; 8 Sc. Ses. Cas. 5th Series, 381.

A mercantile agent is bound, under sect. 51, to deliver a statement of the profits of the persons for whom he acts.

5 & 6 Vict. c. 35, s. 52. Persons chargeable under this Act shall deliver statements of the annual value of the property and profits chargeable, exclusive of the profits and gains arising from annual payments by other persons for which those persons are chargeable.

52. Every person chargeable under this Act shall, when required so to do, whether by any general or particular notice given in pursuance of this Act, within the period to be mentioned in such notice as aforesaid, prepare and deliver to the person appointed to receive the same, and to whom the same ought to be delivered, a true and correct statement in writing in such form as this Act requires (*a*), and signed by the person delivering the same, containing the annual value of all lands and tenements in his occupation, whether the same be situate in one or more parish or parishes, and the amount of the profits or gains arising to such person from all and every the sources chargeable under this Act, according to the respective schedules thereof, which amount shall be estimated for the period and according to the respective rules contained in the respective schedules of this Act; to which statement shall be added a declaration, that the same is estimated on all the sources contained in the said several schedules, describing the same, after setting against or deducting from such profits or gains such sums, and no other, as are allowed by this Act; and every such statement shall be made exclusive of the profits and gains accrued or accruing from interest of money, or other annual payment arising out of the property of any other person, for which such other person ought to be charged by virtue of this Act.

(*a*) See Sched. (G.) for the subject-matter of the statements, &c., p. 461.

As to whether

The last passage in this section is of the greatest importance. There is no

direct enactment in the Income Tax Acts that a sum shall not be twice taxed. Now the Acts impose the tax on very many different kinds of property and profits, and it may happen that a property or profit taxed under one head may also form a portion of a property or profit taxable under a head quite separate and distinct from the former. Thus "interest of money" is a subject-matter of taxation, and "profits and gains of a business" are another subject-matter. Now the same sum of money may be both "interest of money" and "profits and gains of a business." Can it be twice taxed? Although there is no direct decision on the point, Lord Esher, M. R., expressed an opinion in *Clerical, Medical, and General Life Assurance Society* v. *Carter*, that it could not, and he considered that sect. 52 ought to be so construed as to prevent such a hardship. "Assuming the plain meaning of the words to be what I have said, then, if hardship should arise as suggested, if the result should be, as was contended, that a sum of money such as this, which has been made a separate matter of assessment as interest, may also be brought into account in arriving at the profits and gains of a business, and so taxed again, we cannot help such hardship. I do not mean to say that I think that contention to be correct. The Solicitor-General, on behalf of the Crown, strongly argued that that was not the effect of sect. 52, and that the supposed hardship could not arise. So far as my opinion on the subject may avail, I must say that I accede to that view, and I think that the 52nd section ought to be so construed as to prevent the suggested hardship, and that interest of money ought not first to be taxed as a separate subject-matter of taxation, and then brought again into account in arriving at the profits and gains of a business and so taxed again."

a sum of money can be twice taxed.

Lord Esher, M.R., in 1889. *Clerical, Medical, and General Life Assurance Society* v. *Carter*, L. R. 22 Q. B. Div. 450.

53. Every person who shall act in any character as aforesaid for any other person, who by reason of any such incapacity as aforesaid, or by reason of his not being resident in the United Kingdom, cannot be personally charged by virtue of this Act, shall also, within the like period, deliver to the person appointed to receive the same under this Act, and to whom the same ought to be delivered, and in the same district in which the person delivering such list ought to be charged on his own account, a true and correct statement in writing, signed by him, and to be made in such form as this Act requires, of the amount of the profits and gains to be charged on him on account of such other person, estimated during the period and according to the rules contained in the said respective schedules, together with such declaration of the manner of estimating the same as aforesaid: Provided always, that where two or more such persons shall be liable to be charged for the same person, one return only shall be required, and such return shall be made by them jointly, or by one or more of them on behalf of himself or themselves and the rest of the persons so liable, and it shall be lawful for them to give notice in writing to the Commissioners acting in each district where they shall be called upon for such statement, in what parish or place, or parishes or places, they are respectively chargeable by this Act on their own account, and in which of the said parishes or places they are desirous of being so charged on the behalf of such other person for whom they so act in any of the characters before mentioned, and they shall be assessed accordingly by one assessment in such

5 & 6 Vict. c. 35, s. 53.

Trustees and agents of persons incapacitated or not resident in the United Kingdom to be charged.

Where there are two or more trustees or agents one return only shall be required.

parish or place, provided any one of such persons shall be liable to be charged on his own account in such parish or place; and if more than one assessment shall be made on such persons, or any of them, on the same account, relief shall be granted from such double assessment by like applications to the Commissioners as are allowed in other cases by this Act.

5 & 6 Vict. c. 35, s. 54. Officers of corporations to prepare statements of profits and gains to be charged, estimated on the annual profits before dividend made.

54. Every such officer before described (*a*) of any corporation, fraternity, fellowship, company, or society shall also within the like period, prepare and deliver in like form and manner a true and correct statement of the profits and gains to be charged on such corporation, fraternity, fellowship, company, or society, computed according to the directions of this Act, together with such declaration of the manner of estimating the same as aforesaid; and such estimate shall be made on the amount of the annual profits and gains of such corporation, fraternity, fellowship, company, or society before any dividend (*b*) shall have been made thereof to any other persons, corporations, or companies having any share, right, or title in or to such profits or gains; and all such other persons, and corporations or companies, shall allow out of such dividends a proportionate deduction in respect of the duty so charged: Provided always, that nothing herein-before contained shall be construed to require in such statement the inclusion of salaries, wages, or profits of any officer of such corporation, fraternity, fellowship, company, or society, otherwise chargeable under this Act.

(*a*) Section 40. See *post*, p. 324.

Meaning of the word dividend. Lord Blackburn in 1885. *Last* v. *London Assurance Corporation*, L. R. 10 Ap. Cas. 444.

(*b*) This applies not only to sums divisible amongst shareholders of a company, but also to sums divisible amongst its customers. "Cotton, L. J., says, indeed, that 'the word dividend clearly in my opinion means what is to be divided between those who claim it not by their contract with the company but by their position as shareholders.' I have great respect for the judgment of Cotton, L. J., but he gives no reason for this construction of the enactment, and I can see none. I feel bound to say that I do not agree with it. . . . . The Master of the Rolls seems to think that in estimating the profits of a business you must always, as he words it, 'consider the shareholders and the customers in antithesis'; as I understand this figurative expression, he seems to think that whatever is by the bargain to be given to the customer must be an expense preliminary to the earning of profit, and cannot be itself a part of the profit. I rather think it was from (I cannot but think hastily) assenting to this position that Cotton, L. J., put the construction from which I have dissented on 5 & 6 Vict. c. 35, s. 54." Lord Blackburn in *Last* v. *London Assurance Corporation*.

7 Edw. 7, c. 13, s. 22 (2).

The Finance Act, 1907—

22.—(2.) The duties imposed on officers of any corporation, company, fraternity, fellowship, or society by sections forty and fifty-four of the Income Tax Act, 1842, and by section eighteen

of the Customs and Inland Revenue Act, 1879, shall, in the case of any company, be performed by the secretary of the company or other officer (by whatever name called) performing the duties of secretary.

The Income Tax Act, 1842—

5 & 6 Vict. c. 35, s. 55. Penalty on persons neglecting to deliver in lists and statements. If on information before Commissioners, 20*l.* and treble duty;

55. If any person who ought by this Act to deliver any list, declaration, or statement as aforesaid (*a*) shall refuse or neglect so to do within the time limited in such notice, or shall under any pretence wilfully delay the delivery thereof, and if information thereof shall be given, and the proceedings thereupon shall be had, before the Commissioners acting in the execution of this Act, every such person shall forfeit any sum not exceeding twenty pounds, and treble the duty at which such person ought to be charged by virtue of this Act, such penalty to be recovered as any penalty contained in this Act is by law recoverable, and the increased duty to be added to the assessment, but, nevertheless, subject to such stay of prosecution or other proceedings by a subsequent delivery of such list, declaration, or statement in the case following; (that is to say,) if any trustee, agent, or receiver, or other person hereby required to deliver such list, declaration, or statement on behalf of any other person, shall deliver an imperfect list, declaration, or statement, declaring himself unable to give a more perfect list, declaration, or statement, with the reasons for such inability, and the said Commissioners shall be satisfied therewith, the said trustee, agent, or receiver, or other person as aforesaid, shall not be liable to such penalty in case the Commissioners shall grant further time for the delivery thereof; and such trustee, agent, receiver, or other person shall, within the time so granted, deliver a list, declaration, or schedule, as perfect as the nature of the case will enable him to prepare and deliver; and every person who shall be prosecuted for any such offence by action or information in any of her Majesty's Courts, and who shall not have been assessed in treble the duty as aforesaid, shall forfeit the sum of fifty pounds (*b*).

if on information in a Court of Law, 50*l.*

(*a*) *I.e.*, the true and correct statement required by sect. 52. See the opinion of the Lord Ordinary in *Lord Advocate* v. *Sawers*, 1898, 25 Sc. Sess. Cas. 4th Series, 242; 35 S. L. R. 190.

(*b*) It is not necessary to a prosecution that proceedings shall have first been taken before the Commissioners: *S. C.*

"An action lies under the 55th section, even where a return of some kind has been given in, if that return be not true and correct." Lord President: *S. C.*

The limit of time for recovering any fine or penalty incurred under the Income Tax Acts is three years from the date when the fine or penalty was incurred. See the Finance Act, 1907, s. 23 (1), *post*, p. 112.

7 Edw. 7, c. 13, s. 22 (1). Liability to make returns.

The Finance Act, 1907—

22.—(1.) Every person upon whom notice is served in manner prescribed by section forty-eight of the Income Tax Act, 1842 (which relates to the delivery of notices by assessors), requiring him to make a return of any profits, gains, or income in respect of which he is chargeable with duty under Schedule (D.) or Schedule (E.) in the Income Tax Act, 1853, shall make a return in the form required by the notice, whether he is or is not chargeable with duty, and in default shall be liable to a penalty under section fifty-five of the Income Tax Act, 1842, accordingly:

Provided that a penalty inflicted in the case of a person proceeded against for not complying with this provision, who proves that he was not chargeable to duties, shall not exceed *five pounds* for any one offence.

16 & 17 Vict. c. 34, s. 56. Penalty for inducing persons to make false returns of profits or of the value of lands.

The Income Tax Act, 1853—

56. If any person shall knowingly and wilfully aid, abet, or assist, or incite or induce, any other person to make or deliver any false or fraudulent account, statement, or declaration of or concerning any profits or gains chargeable under this Act, or of the yearly rent or value of any lands, tenements, or hereditaments, or of any matters or things affecting such rent or value, such person so offending shall for every such offence forfeit the sum of fifty pounds.

5 & 6 Vict. c. 35, s. 56. Persons to whom notices have not been delivered not liable to penalty if exempt.

The Income Tax Act, 1842—

56. Provided always, that no person to or on whom the assessor shall not have delivered or served a particular notice as aforesaid shall be liable to the penalties before mentioned, or either of them, for not delivering such statement as before required, if it shall appear to the Commissioners for executing this Act, on inquiry before them, that such person is entitled to be exempted from the payment of all and every the duties hereby granted.

5 & 6 Vict. c. 35, s. 57. Assessors to make out a list of the persons on whom notices have been served.

57. The assessor shall make out an alphabetical list, and deliver the same to the inspector or surveyor of the district, containing the names of all persons to or on whom such notices have been delivered or served in pursuance of this Act, and the names of all persons having property or profits chargeable under this Act, within the limits of such assessor, distinguishing the persons who have duly made their returns, and the persons who have omitted to make such returns, and the persons who have given notice to be assessed by the Commissioners for Special Purposes, and also the

persons who shall have been returned as lodgers or inmates within such limits, or as chargeable within but having a residence out of such limits; and if such assessor shall have neglected to give notice to any person to whom the same ought to be delivered, the inspector or surveyor may at any time afterwards cause such notice to be delivered to or served on such person, and may also from time to time cause the like notice to be delivered to or served on any person coming to reside in any parish or place after the expiration of such notices.

Inspector or surveyor may serve notice on persons omitted.

58. The assessor for every parish or place shall personally appear before the said Commissioners at such meeting as the said assessor shall be appointed to attend, and shall then and there make oath before the said Commissioners that the several notices required to be delivered to householders and occupiers, and also to lodgers and inmates, by this Act, have been duly served in the manner required by this Act, to the best of his knowledge, and that general notices to the effect mentioned in this Act have been duly affixed, in the manner hereby required, on such proper places within the city, town, or place for which such assessor shall act, as by this Act is required, and that the list delivered by him to the inspector or surveyor contains the name of every person to or on whom such notices ought to be delivered or served, according to the directions of this Act, within the knowledge of such assessor; and every assessor who shall neglect to appear before such Commissioners, or refuse to make such oath, or who shall have omitted or neglected to return to such inspector or surveyor the name of any person whose name ought to be included in any such list as by this Act is required, shall forfeit any sum not exceeding twenty pounds.

5 & 6 Vict. c. 35, s. 58.

Assessors to verify the delivery of notices and the affixing of general notices;

penalty for neglect, 20*l*.

59. The clerks to the said respective Commissioners shall with all convenient speed abstract the returns of statements delivered to such Commissioners by the assessors, or at their office by the respective parties, into books to be provided for that purpose, and according to such forms as shall be transmitted to them from the chief office of Inland Revenue, such abstracts to contain the names of the persons making such returns, and the several amounts of profits returned by them respectively, to be laid before and delivered to the said Commissioners; and all such returns shall be numbered and filed in the office of the said Commissioners, and carefully kept so long as the accounts of the said duties for such district, or any parts thereof, shall remain unpaid to her Majesty; to all which books any inspector or surveyor who shall have taken

5 & 6 Vict. c. 35, s. 59.

Abstract to be made by the clerks of returns of statements delivered to the Commissioners.

Inspectors

may have access to and take copies from books containing such abstracts.

the oath herein prescribed before the Commissioners acting for the same districts respectively shall have free access at all seasonable times, and shall take such copies thereof, or of such parts thereof, or extracts from the same, as he shall deem necessary in order to the due execution of this Act.

43 Geo. 3, c. 161, s. 60. Power to assessors to view houses.

The House Tax Act, 1803—

60. And be it further enacted, that the several assessors, inspectors, and surveyors, so as aforesaid appointed or to be appointed, and every of them, shall have full power, at reasonable times, taking to his or their assistance in all cases when the same shall be necessary, a constable, head-borough, tything-man, or other officer of the respective parishes or places within that part of Great Britain aforesaid, who are hereby required to assist such officers accordingly, to view and examine each dwelling-house, in order to ascertain the annual rent at which the same dwelling-house ought to be charged; and shall also have liberty to make like view, examination, and inspection twice in the year during the continuance of this Act.

45 & 46 Vict. c. 72, s. 7.

This section was repealed by the Taxes Management Act, 1880, but revived by the Revenue, Friendly Societies, and National Debt Act, 1882, s. 7.

Place of Assessment.

43 & 44 Vict. c. 19, s. 53. Parish in two counties.

The Taxes Management Act, 1880—

53.—(1.) Where a parish is in two or more counties or divisions the duties to be charged in or for such parish shall be assessed by the Commissioners acting for that part of the parish where the church is situate, and the whole parish shall be deemed for the purposes of this Act and the Tax Acts to be situate in the county or division wherein such church is situate; and also where any dwelling-house or any other premises occupied therewith is situate in two or more parishes the whole duties to be charged thereon shall be assessed, raised, levied, collected, and paid in one of the parishes only as the surveyor deems most expedient, to be notified by him to the Commissioners acting for either of the parishes, and the party charged shall be relieved from any second assessment made thereon, or any part thereof, as in other cases of double assessments.

Houses in two parishes.

In case of doubt the Board to direct where assessments to be made.

(2.) If a doubt arises as to the district or parish in which a person ought to be assessed to the duties, and where a person has been assessed, or shall be liable to be assessed, to the duties in two or more districts or parishes, the Board may order that he shall be assessed to the duties in such district or parish as appears to them to be proper, and he shall be assessed accordingly.

The Customs and Inland Revenue Act, 1881— 44 & 45 Vict. c. 12, s. 25.

25. Sub-section one of section fifty-three of the Taxes Management Act, 1880, shall not apply to Scotland.

The Taxes Management Act, 1880— 43 & 44 Vict. c. 19, s. 54.

54.—(1.) If a doubt arises as to the parish in which any lands are situate, or if such lands are extra-parochial, the Board may, by order in writing, direct that such lands shall, for the purpose of the assessing, charging, collecting, and levying the duties, and for all other purposes of the Tax Acts, be annexed to and deemed to be within such neighbouring parish, and within such division as the Board may deem the most convenient. If a doubt arise as to parish to which lands belong Board to decide.

(2.) After such order the duties shall be assessed, charged, raised, collected, and levied upon the occupiers of and inhabitants on such lands, by and under the authority of the General Commissioners for the division, and by the surveyor, assessors, and collectors for the parish to which such lands have been so annexed, and all regulations contained in this Act or in the Tax Acts for the making of any assessment, charge, or surcharge to the duties, and for the hearing of appeals against the same, shall, as regards such lands, have application.

(3.) The Board may revoke any such order and substitute any other order in lieu thereof from time to time as often as it shall appear to them to be expedient so to do.

The Income Tax Act, 1842— 5 & 6 Vict. c. 35, s. 177.

177. If any person shall come into any parish or place wherein such person shall not have been before charged to the said duties contained in any of the said schedules for the same year, the assessor or collector, or any inspector or surveyor, shall give or leave notice in writing to or for such person to make out and deliver, within fourteen days next ensuing the day of giving such notice, a declaration in writing, signed by him with his own proper name, which shall specify the name of the parish or place and county wherein such person shall have been assessed as aforesaid for such year, and also to produce the certificate of such assessment, or in default thereof to deliver a statement for the purpose of being assessed in such parish or place; and if any such person as aforesaid shall neglect or refuse to make out and sign and deliver such declaration or statement as aforesaid, within the time before mentioned, or shall make any false or untrue return therein in any particular thereof, he shall forfeit a sum not exceeding twenty pounds; and when in any case

If persons come to reside in any parish in which they have not been before charged the assessor to give them notice to declare where they were charged, or to deliver a statement for the purpose of being assessed.

Penalty on persons neglecting to deliver such statement.

it shall not appear in the assessment of any parish or place for that year that any person residing or being therein shall have been assessed to the said duties in the same parish or place, then and in such case it shall be lawful for the respective Commissioners acting for the said district and they are hereby required to proceed in manner before directed to assess such person to the said several duties, in like manner in every respect as if such person had been resident in such parish or place at the time of the publication of notices as directed by this Act, unless such person shall prove to their satisfaction that he hath been duly charged in some other parish or place, and hath paid or satisfied the duties so charged;

Persons removing out of a parish or place, without first discharging the assessment, or not leaving sufficient goods to satisfy the arrear, subject to penalty.

and if any person, before or after notice given to return a statement as aforesaid, shall remove out of such parish or place without returning such statement, or before an assessment shall be made on him, with intent to evade an assessment, or if any person being assessed to the said duties shall remove out of the parish or place where he shall have been assessed to the said duties without first paying or discharging all the said duties charged upon him which shall then be due and payable (*a*), or without leaving in such parish or place sufficient goods and chattels whereon the said duties in arrear may be raised and levied, and the same shall remain in arrear and unpaid for the space of twenty days after the time appointed by this Act for payment thereof, every such person shall forfeit (over and above the said duties so left unpaid as aforesaid) the sum of twenty pounds; and in every such case, and also in every case where any person shall reside in any other parish or place than that in which the assessment or charge shall be made on him in pursuance of this Act, and the same shall be in arrear and unsatisfied in the whole or in part, it shall be lawful for the Commissioners of the district in which such assessment or charge shall have been made to certify to the Commissioners of the district within which such person shall reside the amount of the assessment or charge made upon such person, and remaining in arrear and unpaid as aforesaid, and such last-mentioned Commissioners shall thereupon cause the whole of the duty so remaining in arrear and unpaid as aforesaid to be raised and levied, by and under their warrant, together with the costs and charges attending the same; provided that if no such certificate and warrant as aforesaid shall be made and issued, or the whole of such arrear of duty, and costs and charges, as aforesaid, shall not be levied or collected in manner aforesaid, the same shall be recoverable as a debt to her Majesty, together with full costs of suit, and all charges and expenses attending the same.

Arrears to be levied by distress in the district where the party resides; and if not so levied or collected, to be recovered as a debt to her Majesty.

(*a*) See also p. 98.

178. If any person who ought to be charged as directed by this Act shall, by fraudulently changing or having changed his place of residence, or by fraudulently converting or having converted his property, or any part thereof, or by fraudulently releasing, assigning, or conveying, or having fraudulently released, assigned, or conveyed, the same, or any part thereof, or by making and delivering any such statement or schedule as aforesaid which shall be false or fraudulent, or having any property chargeable as aforesaid, shall fraudulently convert or shall have fraudulently converted the same, or any part thereof, by altering or having altered any security with relation to such property, or by fraudulently rendering or having rendered the same, or any part thereof, temporarily unproductive, in order that such person may not be charged for the same or any part thereof, or by any falsehood, wilful neglect, fraud, covin, art, or contrivance whatsoever, used or practised, shall not be charged and assessed according to the true intent and meaning of this Act, every such person shall, on proof thereof before the said respective Commissioners for General Purposes acting for the district wherein such persons shall be chargeable, be charged and assessed treble the amount of the charge which ought to have been made on such person if no such charge shall have been made; and if any such charge shall have been made which shall be less than the charge which ought to have been made on such person, then such person shall be assessed and charged, over and above such former charge, treble the amount of the difference between the sum with which such person shall have been charged and the sum with which he ought to have been charged, to be added to such assessment, and applied as in other cases as aforesaid.

5 & 6 Vict. c. 35, s. 178. Penalty on persons fraudulently changing their residence, or converting property, or delivering false statements, or guilty of other fraud.

The limit of time for recovering any fine or penalty incurred under any Act relating to income tax is three years from the date when the fine or penalty was incurred. See the Finance Act, 1907, s. 23 (1), *post*, p. 112.

7 Edw. 7, c. 13, s. 23.

Year of Assessment.

The Income Tax Act, 1842—

176. Every assessment to be made under this Act within the year appointed for making the same shall be deemed to be for the current year, and shall be in force for such year; and every assessment made after the expiration of any year in which the same ought to have been made shall be deemed to be for the whole of the year current when the assessment ought to have been made, and such year shall commence for every assessment during the continuance of this Act from the fifth day of April in such year.

5 & 6 Vict. c. 35, s. 176. Assessments to be for one year.

43 & 44 Vict. c. 19, s. 48. From the 6th of April to the following 5th of April.

The Taxes Management Act, 1880 —

48. Every assessment shall be made for the year commencing and ending on the days as herein specified:

(3.) As regards income tax—

In Great Britain and Ireland from the sixth day of April to the following fifth day of April inclusive.

Assessors' Certificates.

43 & 44 Vict. c. 19, s. 49. Delivery of assessments.

49.—(1.) On or before the day appointed by the General Commissioners for that purpose, every assessor shall deliver to such Commissioners—

(a) His certificates of assessments under Schedules A., B., and E. of the Income Tax Acts and of inhabited house duties; and

(b) All returns relative to the duties made to him before the above appointed day.

(2.) All returns made by the parties to be charged after that appointed day shall be delivered to the Commissioners.

5 & 6 Vict. c. 35, s. 74.

As to the delivery of assessments and returns under Schedules A. and B., see the Income Tax Act, 1842, s. 74, *post*, p. 176.

43 & 44 Vict. c. 19, s. 50. Estimates in default of returns.

50.—(1.) In case the assessor does not receive a return from a person liable to be charged to the duties, he shall to the best of his information and judgment—

(a) Make an assessment on every such person of the charge which ought to be imposed on him under Schedules A., B., and E. of the Income Tax Acts, and under the Acts relating to the duties on inhabited houses; and

(b) Estimate the amount at which every such person ought to be charged in respect of the duties under Schedule D. of the Income Tax Acts, returning to the Commissioners the name and residence of every such person and any other particular the Commissioners may require.

(2.) On the delivery to the General Commissioners by the assessor of any certificate of assessment and of estimate, and their acceptance thereof, they shall forthwith deliver the same to the surveyor for examination.

Examination and Amendment of Assessments.

5 & 6 Vict. c. 35, s. 161. Inspectors and surveyors to have access

The Income Tax Act, 1842—

161. The general inspectors and surveyors appointed or to be appointed shall be and they are hereby empowered respectively to

inspect and examine all and every the returns made by any person under the directions of this Act, and in case any of them shall be dissatisfied either with the returns so made, or the estimate of the assessor thereon, or shall discover any error or omission in such estimate, or that any deduction hath been allowed not authorized by this Act, they shall charge the same, according to the best of their judgment, in the full amount at which the same ought to be charged; and the said inspectors and surveyors shall also be at liberty respectively to inspect and examine all and every the assessments of the said duties, or any of them, made under the authority of the respective Commissioners before mentioned, as well before as after the Commissioners shall have signed and allowed the said assessments, and before such allowance to correct and amend such assessments, if they shall respectively think fit; and every person in whose custody such returns are is hereby required, upon the request of any such inspector or surveyor as aforesaid, to deliver the same into his custody for the purposes of this Act, taking his receipt for the same, and every person in whose custody any such assessments shall be is also hereby required, upon the request of such inspector or surveyor as aforesaid, to produce the same, and such inspector or surveyor is hereby authorized to take charge of the same until he shall have taken such copies of or extracts from the same as may be necessary for his better information; and every person wilfully obstructing such inspector or surveyor in the due performance of his duty as aforesaid shall forfeit the sum of fifty pounds; and if any such inspector or surveyor shall find or discover, upon his survey or examination, or otherwise, that any person, corporation, company, or society who ought to be charged with the said duties or any of them, shall have been omitted to be charged therewith, or shall have been under-rated in the assessment, or that any person, or the officer of any corporation, company, or society, liable to the said duties or any of them, being required so to do, hath neglected or refused to make a return according to the directions of this Act, or that the assessors have neglected to require a return in any case where a return ought to have been required from any person, corporation, company, or society according to the intent of this Act, so that such person, corporation, company, or society shall not have been fully charged to the said duties, then and in every such case the said surveyor or inspector shall certify the same in writing under his hand, together with an account of every default, and the full amount of the duty which ought to be paid by way of surcharge, to the said respective Commissioners for putting in execution this Act in relation to the duties on which such surcharge shall be made, in the manner and under and subject

to returns and assessments with liberty to amend them and make surcharges.

to the rules and regulations prescribed and contained in the Taxes Management Act, 1880.

Most of the enactments in sect. 161 are re-enacted in sects. 51 and 52 of the Taxes Management Act, 1880, *infra*.

43 & 44 Vict. c. 19, s. 51.

The Taxes Management Act, 1880—

Examination of Assessments.

Surveyors to examine assessments and returns.

51.—(1.) The surveyor may inspect and examine any return, and also every first assessment of the duties, made for any parish for any year, as well before as after the respective Commissioners sign and allow such first assessments.

(2.) Every person in whose custody any return may be shall on the request of the surveyor deliver the same into his custody, taking his receipt for the same; and every person in whose custody any such assessment shall be shall on the request of the surveyor produce the same, and the surveyor is hereby authorized to take charge of such assessment until he has taken such copies or extracts as may be necessary.

Amendment of Assessments.

43 & 44 Vict. c. 19, s. 52. Surveyors may amend assessments.

52. If the surveyor discovers that any properties or profits chargeable to the duties have been omitted from such first assessments, or that any person so chargeable has not made a full and proper or any return, or has not been charged to the said duties, or has been undercharged in the said first assessments, or has obtained and been allowed from and in such first assessments any allowance, deduction, abatement, or exemption not authorized by the Tax Acts, then

(1.) As regards inhabited house duties and the duties chargeable under Schedules A., B., and E. of the Income Tax Acts—

(a) Before the first assessment has been signed and allowed, the surveyor shall correct and amend such assessment, and charge the person liable to the full amount and at the full rate of duty at which he ought to be charged.

(b) After the first assessment has been signed and allowed, but within four months (*a*) after the expiration of the year to which such assessment relates, the surveyor shall certify the particulars of any such insufficient return, default, omission, undercharge, or unauthorized deduction to the General Commissioners, who shall thereupon rectify the same by signing and allowing an additional first assessment to be made in accordance with the particulars set forth in such certificate, subject to appeal and other proceedings as authorized in the case of the first assessment.

(2.) (*a*). As regards the duties chargeable under Schedule D. of the Income Tax Acts, the Additional Commissioners shall at any time after the said first assessments have been signed and allowed, but within four months after the expiration of the year to which such first assessments relate, make an assessment on any such person in an additional first assessment in such sum as according to their judgment ought to be charged on such person, subject to objection by the surveyor and to appeal.

(*a*) As to the power of inspectors and surveyors to examine assessments under Schedule D., see the Income Tax Act, 1842, sect. 115, p. 285. 5 & 6 Vict. c. 35, s. 115.
This section applies where an assessment has been made. Where no assessment has been made, see sect. 63, *post*, p. 163.

The Finance Act, 1907— 7 Edw. 7, c. 13, s. 23 (2).

23.—(2.) The time during which an assessment may be amended or an additional first assessment made under section fifty-two of the Taxes Management Act, 1880 (which relates to the amendment of assessments), or during which an assessment may be made on the estate of a deceased person under section twenty-four of the Customs and Inland Revenue Act, 1890 (which relates to the power to make such assessments), shall be any time within the year of assessment or within three years after the expiration thereof, and the time during which in cases of omission to charge any person a charge may be made and allowed or signed under section sixty-three of the Taxes Management Act, 1880 (which relates to the powers of surveyors to make such charges), shall be a period of three years after the expiration of the year for which the person ought to have been charged. 53 & 54 Vict. c. 8.

(3.) Nothing in this section shall affect proceedings for the recovery of fines or penalties incurred before the commencement of this Act, or extend the time during which any assessment may be made or amended, or a charge may be made on any person in respect of income tax charged under any Act passed before the commencement of this Act.

Errors.

The Taxes Management Act, 1880—

55. No assessment, nor any charge made upon any assessment, shall be impeached or affected— 43 & 44 Vict. c. 19, s. 55. Errors of description.

(a) By reason of any mistake therein, or in either of them,
  (i.) In the Christian name or names, or surname of any party liable to any of the duties;
  (ii.) In the description of any profits or property;
  (iii.) In the amount of the duty charged:
(b) By any variance between the notice and the certificate of charge or assessment;

provided that in cases of charge the notice thereof be duly served on the person intended to be charged, and such notice and certificate do severally contain in substance and effect the several particulars on which the charge is made; and every such charge shall be heard and determined on its merits by the General Commissioners.

Allowance of Assessments.

43 & 44 Vict. c. 19, s. 56. Allowance of assessments.

56.—(1.) After the surveyor has examined the assessments delivered by the assessors, the General Commissioners shall take them into consideration; and in case the surveyor has not objected to the assessments and the Commissioners are satisfied that they have been made truly and without fraud, and so as to charge the properties and persons contained therein with the full duty which ought to be charged, the Commissioners shall sign and allow such assessments.

(2.) In case the surveyor objects to any assessment and applies for a revision thereof, suggesting in writing to the General Commissioners any error, mistake, omission, or fraud in making the same, they shall, according to the best of their judgment, rectify such assessment so that the proper duty may be fully charged according to the intent and meaning of the Tax Acts.

5 & 6 Vict. c. 35, s. 110.

As to the procedure under Schedule D., see the Income Tax Act, 1842, s. 110, &c., *post*, p. 284.

Omissions from First Assessments.

43 & 44 Vict. c. 19, s. 63. Charges may be made in cases of omissions.

63.—(1.) Where the surveyor discovers that a person liable to any of the duties has not been assessed in respect thereof in any first or additional first assessment, he may, at any time within the year following the year for which such person ought to have been charged, charge the person liable to the amount which ought to have been charged within the year of assessment, to the best of his judgment, and certify the particulars of such omission and charge to the General Commissioners, who, upon delivery of any such certificate, and upon oath being first made either by the surveyor or other credible witness of the due service of a notice of charge on the person so charged, shall sign and allow the said certificate as hereinafter prescribed, but subject to appeal.

Notice to persons charged.

(2.) The surveyor shall give to every person so charged notice of such charge, and the particulars thereof.

Proof of notice.

(3.) The certificate of the surveyor with oath of service of the notice of charge shall be deemed sufficient proof of the contents thereof, unless the contrary be shown on the production of such notice to the General Commissioners by the party charged; and no proof of the contents of any such notice shall be required by the said Commissioners to be given to them either by a copy

thereof or otherwise previous to their signing or allowing the said certificates, nor upon appeal therefrom, nor other proof in any matter relating to the same, except the oath of the person who shall have made service of such notices, and which shall be in the form and to the effect following; that is to say,

"I, A.B., do swear that a notice was duly served upon each person mentioned in the above certificate containing the particulars as set forth therein respectively on the day or days mentioned in the said certificate."

(4.) If any person wilfully and corruptly makes a false statement in any such oath of service he shall be guilty of misdemeanor, and shall be liable to imprisonment for six months with or without a fine not exceeding fifty pounds.

(5.) No charge upon any assessment of duties shall be allowed or signed unless the certificate thereof shall be delivered to the General Commissioners within the year following the year of such assessment. Time limit.

(6.) The delivery of any such certificate of charge by any surveyor to their clerk in default of a meeting of the said Commissioners shall be deemed a sufficient delivery. Delivery.

(7.) In default of a meeting of the Commissioners before the time limited for the hearing of appeals from the charges of the surveyor, or if the said surveyor shall not have had notice of a meeting of the Commissioners, they shall, at their first meeting to be held thereafter, sign and allow the said certificates, and afterwards hear and determine all appeals therefrom.

The Finance Act, 1907— 7 Edw. 7, c. 13, s. 23 (2).

23.—(2.) . . . the time during which in cases of omission to charge any person a charge may be made and allowed or signed under section 63 of the Taxes Management Act, 1880 (which relates to the powers of surveyors to make such charges), shall be a period of three years after the expiration of the year for which the person ought to have been charged.

(3.) Nothing in this section shall affect proceedings for the recovery of fines or penalties incurred before the commencement of this Act, or extend the time during which any assessment may be made or amended, or a charge may be made on any person in respect of income tax charged under any Act passed before the commencement of this Act.

Amended Return.

The Taxes Management Act, 1880— 43 & 44 Vict. c. 19, s. 64.

64.—(1.) A person to whom such notice of charge has been given may, within ten days from date of such notice, whether he shall have made a return before or not, Persons surcharged may make amended return.

(a) Deliver to the surveyor a true and perfect return containing all particulars required by the Tax Acts; or

(b) Give notice in writing to the surveyor that he doth abide by the return before made by him.

Declaration.

(2.) To such return or notice shall be annexed a declaration, signed by the person to whom such notice of charge has been given, in his own name and handwriting or sign, and also signed and attested by one credible witness at the least. Every such declaration shall allege—

(a) The grounds and cause of his neglect to make a return;

(b) The grounds and cause of each omission made or mentioned in the notice of charge to have been made in such former return; or

(c) The grounds and cause of each claim of exemption, allowance, or deduction made in the former return; and

(d) That the return or amended return to which the said declaration is annexed is a true and perfect return of all particulars required of the declarant by the Tax Acts, to the best of his judgment and belief; and

(e) That such neglect, omission, or claim was not made with intent to defraud the Revenue.

Objections to amended return.

(3.) The surveyor may object to such return or amended return or declaration thereto annexed, and shall in such case serve notice of objection on the party charged, and certify such return or amended return and declaration annexed thereto, with the cause of his objection, to the General Commissioners, who shall thereupon cause the assessment to be made according to such last-mentioned certificate of objection, from which charge no abatement shall be made except on the appeal of the party so charged.

Satisfaction therewith.

(4.) If the surveyor is satisfied with such return or amended return and declaration annexed thereto, he may certify his satisfaction therewith to the General Commissioners, who shall thereupon cause the party charged to be assessed on the amount of such return in single duty.

43 & 44 Vict. c. 19, s. 65. Time limit.

65.—(1.) Every person charged in pursuance of this Act by the certificate of any surveyor shall have the period of ten days after service of the notice of charge to deliver his amended return to the surveyor, and no certificate of charge shall be signed or allowed by the General Commissioners nor any appeal heard from such charge before the expiration of such period.

(2.) If the person so charged shall, before the expiration of the said period, deliver a return and declaration which the surveyor objects to, such return and declaration shall be a sufficient notice of appeal from such charge to the Commissioners.

(3.) If the person so charged shall not, before the expiration of the said period, deliver a return of declaration, the Commissioners may, on his or his agent's appearance before them, and the delivery to them of a return and declaration as is herein required on the day appointed for hearing appeals from the charges of the surveyor, hear and determine the matter of such charge, although the person charged shall not have given any previous notice of his intention to appeal.

(4.) In default of the appearance of the party charged or of his agent before the Commissioners on the day of appeal, or in default of the production of a return or declaration as aforesaid, the certificate of charge shall be confirmed by the Commissioners.

43 & 44 Vict. c. 19, s. 66. False declaration.

66.—(1.) If a person in any such declaration wilfully and fraudulently declares anything which is false, he shall be guilty of misdemeanor, and shall be liable to imprisonment for not exceeding six months, and be fined in a sum not exceeding treble the amount of duty for which he has been charged, as the Court before whom such trial shall be had shall order.

Indictment.

(2.) The indictment for such misdemeanor shall be laid in the county where the declaration was exhibited to the General Commissioners.

3. Appeals.

The Taxes Management Act, 1880— 43 & 44 Vict. c. 19, s. 57.

Appeals.

Notice of appeal meetings to be given.

57.—(1.) So soon as any assessment of the duties for a parish shall be signed and allowed, notice of appeal meetings shall be given as prescribed by the Income Tax Act, 1842 (*a*), and the clerk shall inform the surveyor thereof.

(2.) Relates to the inhabited house duties.

Persons aggrieved may appeal.

(3.) A person aggrieved (*b*) by an assessment upon him included in any first or additional first assessment shall, on giving ten days' notice of objection in writing to the surveyor within the time limited for hearing appeals, be entitled to appeal to the General Commissioners against such assessment within twenty-one days after the date of the notice of such assessment to the party charged therewith.

Assessments not to be altered before appeals, except in cases authorized.

(4.) No assessment delivered to the General Commissioners shall be altered by them, or any of them, before the time for hearing and determining appeals, and then only in cases of charges appealed against, and according to the determination of the said Commissioners upon their hearing the matter of appeal particularly

relating thereto upon a general appeal day duly appointed, except in such cases only where such Commissioners are specially authorized to alter or rectify any such assessment; and if the clerk or any other person alters or causes or procures or suffers to be altered any assessment after the same has been allowed by the Commissioners except as aforesaid, or in cases of appeal, and by order of the said Commissioners, made after appeal as aforesaid, such clerk or other person shall incur a penalty of fifty pounds.

(5.) The General Commissioners shall cause notice of the day of appeal to be given to the appellants, and shall meet together from time to time, with or without adjournment, until all appeals shall have been determined.

Proof of overcharge.

(6.) The said Commissioners shall not, upon the hearing of any such appeal, make an abatement or reduction in the charge made upon any person by assessment or surcharge by any assessor or surveyor, but the charge or surcharge shall stand good and remain part of the annual assessment, unless it shall, upon the hearing of such appeal, appear to the Commissioners then present, or the major part of them, by examination of the appellant, upon oath or affirmation, or by other lawful evidence to be produced by him, that such person is overcharged in or by such assessment or surcharge.

Surveyor may attend and produce evidence.

(7.) At every and any appeal the surveyor and assessor may then and there attend, and

(a) Give his reasons in support of the assessment or surcharge appealed against:

(b) Produce any lawful evidence in support of such assessment or surcharge:

(c) Have full power and liberty to be present during all the time of hearing such appeals and of the Commissioners determining the same.

Persons not fully assessed may be charged.

(8.) If on an appeal it appears to the said Commissioners that a person assessed or surcharged ought to be charged to an amount beyond the amount contained in such assessment or surcharge, the Commissioners shall charge such person to the amount of the sum omitted.

Determination final, except where cases are required for the High Court.

(10.) Appeals once determined by the General Commissioners, or by the major part of them present on the day appointed for the hearing of appeals, shall be final; and neither the determination of the Commissioners nor the assessment then and there made thereupon shall be altered at any subsequent meeting, or at any

other time or place, except by order of the High Court when a case has been required as provided by this Act.

(*a*) See under Schedules A. and B., the Income Tax Act, 1842, s. 80, and under Schedule D., ss. 118 *et seq.*, *post*, pp. 179 and 287.
As to the procedure under Schedule D., see the Income Tax Act, 1842, ss. 118 *et seq.*, *post*, p. 287.

5 & 6 Vict. c. 35, ss. 80 and 118 *et seq.*

(*b*) The owner of lands may appeal against an assessment under Sched. A. See the Finance Act, 1896, s. 28, *post*, p. 179.

59 & 60 Vict. c. 28, s. 28.

The Finance Act, 1898—

61 & 62 Vict. c. 10, s. 16. Power to barristers and solicitors to plead before the General Commissioners.

16. Section 57, sub-section 9, of the Taxes Management Act, 1880, is hereby repealed, and it shall be lawful for the General Commissioners to permit any barrister or solicitor to plead before them on any appeal for the appellant or officers either *viva voce* or by writing.

The Revenue Act, 1903—

3 Edw. 7, c. 46, s. 13. Professional representation in income tax appeals.

13. If upon any appeal under the Income Tax Acts, the Commissioners for the general purposes of the said Acts refuse to permit a barrister or solicitor to plead before them or to hear any accountant, the appellant may, in lieu of proceeding with the appeal before them, appeal to the Commissioners for the special purposes of the said Acts, and the last-mentioned Commissioners are hereby required to hear the barrister, solicitor or accountant. The term "accountant" in this section means a person who has been admitted as a member of an incorporated society of accountants.

The Taxes Management Act, 1880—

43 & 44 Vict. c. 19, s. 58. Charges not to be made in certain cases.

58. The determination of the General Commissioners after appeal on an objection made by the surveyor to an assessment on any person to the duties, or to any estimate on which any assessment is made for any year, shall preclude the surveyor from afterwards making a further charge for the same year on the same person in respect of the same matter, property, or profits included in the assessment or estimate before objected to and determined as aforesaid.

The Income Tax Act, 1853—

16 & 17 Vict. c. 34, s. 55. Persons who have removed before appealing may be allowed to appeal to the Commissioners of the district to which they have removed.

55. Where any person assessed or charged to any of the duties under this Act shall have removed from the district within which the assessment or charge upon him was made without having appealed against such assessment or charge in such district, it shall be lawful for the Commissioners of Inland Revenue, if they shall think fit, on the application of such person to authorize and empower the Commissioners of the district to which such person

shall have removed as aforesaid to hear and determine his appeal against such assessment or charge, and in every such case the said last-mentioned Commissioners shall have full power and authority and they are hereby required to hear and determine such appeal accordingly, and any sum or sums from which such person may not be relieved on such appeal shall be recovered and levied in the same manner as if such appeal had been heard and determined by the Commissioners of the district in which such assessment or charge was made.

Appeals against Surcharges.

43 & 44 Vict. c. 19, s. 67. Appeals against surcharges.

The Taxes Management Act, 1880—

67.—(1.) Appeals against surcharges shall be heard and determined according to the directions prescribed in respect of appeals against the first assessments of the same duties.

(2.) If a person surcharged is prevented by absence or sickness, or other sufficient cause, to be proved before the General Commissioners on the oath or solemn affirmation of the said person or otherwise, from appealing within twenty-one days after the date of the notice of charge, or from attending in person within such time, the Commissioners may postpone the hearing of the appeal for such time as may to them appear necessary.

5 & 6 Vict. c. 35, s. 162. Surcharges, if confirmed, to be in treble duty, in certain cases.

The Income Tax Act, 1842—

162. Upon every surcharge allowed upon appeal by the said Commissioners, upon the certificate of the inspector or surveyor, as directed by this Act, in cases where no such declaration shall have been delivered as in the said Taxes Management Act, 1880, is required, or the Commissioners shall be dissatisfied with the same, the assessment shall be made in treble the rate of duty prescribed in the said respective schedules of this Act on the amount of the duty surcharged: Provided always, that if upon appeal such declaration as aforesaid shall have been delivered, and if the said Commissioners shall be satisfied therewith, and shall be of opinion that there was any reasonable cause of controversy on the part of the appellant on the subject-matter of appeal, and that the party hath not been guilty of any wilful default, neglect, or omission, nor wilfully done any act with intention to defraud the revenue, it shall be lawful for the said Commissioners who shall have determined the said appeal, although they shall confirm or allow the surcharge, or a part thereof only, at the same time to remit and strike off the whole or any part of the said treble duty; and the overplus of the sum so charged above the said rate or duty, and

Upon appeal the whole or a part of the treble duty may be remitted.

Payment of overplus.

which shall not be so remitted or struck off as aforesaid, shall be paid to the officer for receipt, to the use of her Majesty; which increase of duty, made by occasion of such surcharge, together with the overplus aforesaid above the said rate of duty, and all other increase of duty occasioned by the surcharge or information of any inspector or surveyor under this Act, the Commissioners for executing this Act who shall have confirmed such surcharge or made such increase shall at the same meeting certify under their hands to the Commissioners of Inland Revenue, who shall have authority, under and subject to such rules and regulations as shall have been made by the Treasury in that behalf, to direct the said officer for receipt to pay to the said inspector or surveyor, out of the increased duty and overplus aforesaid, such sum of money as shall appear to the said Commissioners of Inland Revenue to be an adequate reward for the labour and diligence of the said inspector or surveyor.

Increase of duty, &c. by surcharge to be certified to Commissioners of Inland Revenue, who shall have authority to reward inspector or surveyor.

The Taxes Management Act, 1880—

43 & 44 Vict. c. 19, s. 68.

Treble duty.

68.—(1.) On every surcharge allowed by the General Commissioners on appeal in whole or in part the assessment shall be made on the amount of the surcharge allowed in treble the rate of duty prescribed in the Tax Acts.

(2.) But the General Commissioners may remit in whole or in part such treble duty and charge in single duty only, where they are of opinion—

(a) That the assessment might have been amended by the surveyor by means of the original return of the person charged:

(b) That the alleged default, neglect, omission, or claim of exemption, allowance, or deduction was not wilfully made with intent to defraud the revenue:

(c) That the person charged was prevented from making an amended return in due time by absence or sickness or other sufficient cause:

(d) That there was reasonable cause of doubt or controversy on the part of the appellant on the subject-matter of appeal.

4. Cases for the Opinion of the High Court.

The Taxes Management Act, 1880—

43 & 44 Vict. c. 19, s. 59.

Cases for Opinion of High Court.

Commissioners may be required to state a case

59.—(1.) Immediately upon the determination of any appeal under the Income Tax Acts by the General Commissioners, or by the Special Commissioners, or any appeal under the Acts relating

for opinion of High Court.

to the inhabited house duties by the General Commissioners, the appellant or the surveyor may, if dissatisfied with the determination as being erroneous in point of law, declare his dissatisfaction to the Commissioners who heard the appeal, and having so done may, within twenty-one days after the determination, require the Commissioners, by notice in writing addressed to their clerk, to state and sign a case for the opinion of the High Court thereon. The case shall set forth the facts and the determination, and the party requiring the same shall transmit the case, when so stated and signed, to the High Court within seven days after receiving the same, and shall previously to or at the same time give notice in writing of the fact of the case having been stated on his application, together with a copy of the case to the other party, being the surveyor, or the appellant, as the case may be.

(2.) In relation to cases to be so stated, and the hearing thereof, the following provisions shall have effect:

(a) The party requiring the case shall, before he shall be entitled to have the case stated, pay to the clerk to the Commissioners a fee of twenty shillings for and in respect of the case:

(b) The High Court shall hear and determine the question or questions of law arising on a case transmitted under this Act, and shall thereupon reverse, affirm, or amend the determination in respect of which the case has been stated, or remit the matter to the Commissioners with the opinion of the High Court thereon, or may make such other order in relation to the matter, and may make such order as to costs as to the High Court may seem fit:

(c) The High Court shall have power, if they think fit, to cause the case to be sent back for amendment, and thereupon the same shall be amended accordingly, and judgment shall be delivered after it shall have been amended:

(d) The authority and jurisdiction hereby vested in the High Court shall and may (subject to any rules and orders in relation thereto) be exercised by a judge of the High Court sitting in chambers, and as well in vacation as in term time:

(e) (*a*). The High Court may from time to time, and as often as they shall see occasion, make and alter rules and orders to regulate the practice and proceedings in reference to cases stated under this Act.

(3.) An appeal shall lie from the decision of the High Court or of any judge thereof, upon any case stated under the above provisions to her Majesty's Court of Appeal, and from thence to

the House of Lords, and from the decision of the Court of Session, as the Court of Exchequer in Scotland, upon any case so stated to the House of Lords.

(4.) The fact that a case so stated is pending before the High Court shall not in any way interfere with the payment of the income tax or inhabited house duty according to the assessment of the Commissioners by whom the case was stated, but the income tax or inhabited house duty shall be paid according to such assessment, as if the case had not been required to be stated, and in the event of the amount of assessment being altered by the order or judgment of the High Court the difference in amount, if too much has been paid, shall be repaid with such interest (if any) as the High Court may allow, and if too little, shall be deemed to be arrears (except so far as any penalty is incurred on account of arrears), and shall be paid and recovered accordingly.

(*a*) Sub-sect. (e) is repealed as regards England and Ireland by the Revenue, Friendly Societies, and National Debt Act, 1882, s. 7; see also as regards England, 44 & 45 Vict. c. 59, Sched.

45 & 46 Vict. c. 72, s. 7. 44 & 45 Vict. c. 59, Schedule.

Preparation of Case.]—In the preparation of a case, the usual course followed is for the clerk to the Commissioners to draft the case and then send it to the surveyor and the taxpayer for their comments. This involves various modifications in the case as originally drafted, and generally the case pays a visit to Somerset House before being finally settled. Sometimes the nett result is that the taxpayer is stated out of Court; at other times the Revenue authorities abandon their claim. Occasionally the case, through the anxiety of each side to get their views put forward therein, becomes involved in hopeless obscurity. In this event it is the appellant who will suffer, as the Court will naturally not allow an appeal which they do not understand.

"Now, it is the misfortune, and I must say, also the fault of both parties, that this case is abominably badly stated. Instead of a succinct statement of the facts, of the contentions of the parties, and of the decision upon those contentions, the case consists of a farrago of facts, evidence, opinion, argument, authority and illustration. The arguments of the parties are stated not as the contentions upon which the Commissioners decided, but positively by way of discussion of the merits of the so-called findings of the Commissioners as stated in the present case; while, as already pointed out, it is matter of conjecture and of controversy what the Commissioners have already decided. At this time of day, when the system of special cases is long-established and mature, there is no difficulty in framing a case which will serve to raise any intelligible question; it is the duty of the Commissioners, and also of the parties, to see that this is properly done; and I must add that this is expressly so where one of the parties is a public department whose skill and intelligence we have constantly occasion to observe. The present case is so egregious a failure, that I do not think we can do anything else than refuse the appeal." Lord President in 1897, *Leith, Hull and Hamburg Steam Packet Co.* v. *Bain*, 3 Tax Cas. 560.

Additional Facts.]—In the course of the hearing of a case stated by the Commissioners of Income Tax, the Court, without pronouncing any formal order, allowed a note to be put in by the parties setting forth additional facts. The note was received and made part of the case: *Paisley Cemetery Co.* v. *Reith*.

1898, *Paisley Cemetery Co.* v. *Reith*, 25 Sc. Ses. Cas. 4th Series, 1080; 35 S. L. R. 947; 4 Tax Cas. 1.

1894, *Rothschild and Sons* v. *Commissioners of Inland Revenue*, 10 T. L. R. 328.

Right of Reply.]—It should be observed that the Crown has a right of reply. For an instance where the right was claimed and allowed, see *Rothschild and Sons* v. *Commissioners of Inland Revenue.*

Bowers v. *Harding*, [1891] 1 Q. B. 566.

Costs.]—The Court in granting costs will consider the circumstances of the case; but there is no rule that costs will not be granted to the Crown as against a respondent who appears to support a decision of the Commissioners in his favour: *Bowers* v. *Harding.*

Lord Mayor, Aldermen, &c. of Manchester v. *Sugden.*

Costs of Preparation of Case.]—1903. *Lord Mayor, Aldermen and Citizens of the City of Manchester* v. *James Sugden* (Surveyor of Taxes).

Gresham Life Assurance Society v. *Bishop.*

Gresham Life Assurance Society, Ltd. v. *G. H. Bishop* (Surveyor of Taxes), [1903] 2 K. B. 171 (C. A.).

Expenses were incurred in preparing and settling the draft case for signature by the Commissioners, such expenses being necessary to ensure that the proper materials were before the Court.

Held, that such expenses might properly be allowed on taxation to the successful party on the appeal.

The Scottish Union and National Insurance Co. v. *Commissioners of Inland Revenue*, 26 S. L. R. 489; 16 R. 624.

In this case the Court declined to follow *The Scottish Union and National Insurance Co. and others* v. *Commissioners of Inland Revenue.* It would appear that on a case being stated which the Crown abandons the taxpayer is now entitled to his costs incurred in the preparation of the case.

5. Miscellaneous.

5 & 6 Vict. c. 35, s. 171.

The Income Tax Act, 1842—

Relief from Double Assessments.

Commissioners to grant relief from double assessments.

171. Whenever any person shall have been assessed to any of the duties granted by this Act, whether charged on him on his own account, or in any of the characters hereinbefore described on the behalf of any other person and shall by any error or mistake be again assessed for the same cause, and on the same account, and for the same year, it shall be lawful for him to apply to the Commissioners for General Purposes acting for the division or place for which he shall have been so assessed by error or mistake as aforesaid, for the purpose of being relieved from such double assessment, and the said Commissioners, on due proof thereof to their satisfaction, shall cause such assessment, or such part thereof as shall be a double charge as aforesaid, to be vacated, and which proof may be either by a certificate of the assessment made on the party, under the hands of the Commissioners by whom he shall have been rightly assessed according to the directions of this Act for the matter or cause in question, certifying that such matter or cause is included in an assessment made by them on the same party, on the same account, and for the same year, or by other lawful evidence given of those facts on the oath of any credible witness; and whenever it shall be proved to the satisfaction of the Commissioners of Inland Revenue that any such double assessment as aforesaid hath been made, and hath not been vacated, and that

payment hath been made of both assessments, it shall be lawful for the said Commissioners of Inland Revenue to order and direct the Receiver-General of Inland Revenue, or any officer for receipt, to repay to the party the sum so erroneously and doubly assessed upon him, and paid as aforesaid.

The Taxes Management Act, 1880— 43 & 44 Vict. c. 19, s. 60.

Double Assessments.

60. Whenever it appears to the satisfaction of the Board that a person has been assessed more than once to the duties for the same cause and for the same year, they shall direct the whole or such part of such one or more of the assessments as appears to be an overcharge to be vacated, and thereupon the same shall be by such order vacated accordingly. Relief to persons doubly charged.

Books of Assessments.

61.—(1.) Whenever and so soon as the General Commissioners and Land Tax Commissioners shall have signed and allowed any assessment to the duties or the land tax, and the time limited for hearing any appeals therefrom shall have elapsed, the clerk shall number the pages in such book of assessment, and duly cast up and total the sums in each page. 43 & 44 Vict. c. 19, s. 61. Books of assessment.

(2.) The clerk shall forthwith and before the next ensuing receipt transmit to the collector of inland revenue an account on a form prescribed by the Board, showing the total sums to be paid by and for each parish, together with the names and addresses of the collectors appointed to receive the same. Account of totals.

Changes.

62.—(1.) If a person assessed under Schedule (D.) of the Income Tax Acts ceases within the year of assessment to carry on the concern in respect of which the assessment is made, and is succeeded therein by another person, the surveyor shall, within four months from the fifth day of April next after such change, certify to the General Commissioners for the district in which the assessment is made the particulars thereof, and the Christian and surname and place of residence of the person assessed, and of the successor to the concern, and the date of the change in the carrying on of the concern, if the same be known to the surveyor. 43 & 44 Vict. c. 19, s. 62. Surveyor to certify changes, and Commissioners to apportion and adjust the assessment.

(2.) On receipt of such certificate the Commissioners shall cause notice to be given to the respective parties of a meeting of Commissioners for considering the same; and the Commissioners shall, on

the examination of the respective parties, if in attendance or on other satisfactory proof of the facts, adjust the assessment by charging the successor with a fair proportion thereof from the period of his succeeding to the concern and relieving the person originally assessed from a like amount.

(3.) The determination of the Commissioners on any such certificate shall be final, and the assessment so adjusted shall be recoverable from the respective parties in like manner as an original assessment; and if either of the parties has paid in respect of an assessment so certified more than the proportion which appears by the determination of the Commissioners to be chargeable on him, the amount so overpaid shall, when recovered from the party liable, be paid to the person by whom the overpayment was made.

Supplementary Assessments.

43 & 44 Vict. c. 19, s. 69. Supplementary assessments.

69. A certificate of surcharge shall be sufficient authority to the General Commissioners to cause supplementary assessments of the duties to be made from time to time. The supplementary assessments shall include all surcharges according to the certificates of surcharge amended in cases requiring amendment according to the determination of the Commissioners, and all treble duties or parts thereof assessed over and above the rates of duty prescribed in the Tax Acts and all penalties imposed by the Commissioners within the year of assessment for offences against the Tax Acts or this Act.

Charge Duplicates.

43 & 44 Vict. c. 19, s. 70. Duplicates showing amount of assessments to be made out.

70.—(1.) The respective Land Tax and General Commissioners shall yearly cause two duplicates of the charge by every assessment to be made out on the prescribed form by their clerk.

(2.) One of such duplicates shall be delivered to the proper collector of inland revenue, and the other transmitted to the Board, within the times hereinafter limited.

(3.) The said duplicate shall be made as regards land tax for the same parishes and divisions for which distinct duplicates are directed to be made out or may be made out under the Land Tax Acts, and as regards the duties for such parishes for which a separate assessment of the duties may be made.

Contents.

(4.) The said duplicates shall contain—

(a) The names and surnames of the several assessors and collectors for every parish and division; and

(b) The full amount of the sums given in charge to each collector, throughout the whole year, without any discharge, diminution, or defalcation on any pretence whatever.

(5.) The said duplicates shall be made out, delivered, and transmitted on or before the thirty-first day of March in each year, or if the assessments shall not then have been made within one month at farthest after all appeals against such assessments shall have been heard and determined.

(6.) If the clerk neglects or refuses to make out and deliver such duplicates within the time and in manner hereinbefore directed, or wilfully makes any false entry in or omits any sum from such duplicates, he shall incur a penalty of one hundred pounds, and on conviction be discharged from his office. Penalty.

6. Claims of Exemption.

The Income Tax Act, 1842— 5 & 6 Vict. c. 35, s. 164.

164. Every person claiming to be entitled to such exemption as last aforesaid, shall, within the time to be limited as hereinbefore directed for delivering in the lists, declarations, and statements required by this Act (or within such further time as the said Commissioners shall for special cause assigned allow), deliver or cause to be delivered to the assessor of the parish or place where such claimant shall reside a notice of his claim for such exemption, together with a declaration and statement, signed by such claimant, and in such form as may be provided under the authority of this Act, declaring and setting forth therein all the particular sources from whence the income of such claimant shall arise, and the particular amount arising from each source, and also every sum of annual interest or other annual payment reserved or charged thereon, whereby the income shall or may be diminished, and also every sum which such claimant may have charged or may be entitled to charge against any other person for or on account of the duty made payable by this Act, or which he may have deducted or retained, or may be entitled to deduct or retain, under the authority of this Act, from or out of any payment to which he may be or become liable; which declaration and statement every inspector or surveyor shall be at liberty to peruse and examine, and to take copies of or extracts from, under the like powers as in other cases; and in every case where such claim for exemption shall be made in manner aforesaid the assessor shall transmit such notice, declaration, and statement to the said Commissioners; and if the inspector or surveyor shall not object to such declaration within forty days after such transmission, or Mode of claiming exemption and of proceeding on such claim.

within such further time as the Commissioners, on just cause, shall allow to him to make such objection, it shall be lawful for the said Commissioners to allow such claim of exemption, and to discharge the assessment made upon any property or profits of such person, either in his own name or in the name of his lessee or tenant, within the district of the said Commissioners; and if it shall appear that any property or profits of such person is or are assessed or liable to be assessed in any other district, the said Commissioners shall certify to the Commissioners of Inland Revenue, in such form as shall be provided under the authority of this Act, the allowance of such exemption; and the said last-mentioned Commissioners shall direct the assessment made upon any property or profits of such claimant, either in his own name or in the name of his lessee or tenant, in any other district, to be discharged, and the same shall be discharged accordingly: Provided always, that in case the inspector or surveyor shall object to any such claim as aforesaid in writing, suggesting to the said additional Commissioners that he hath reason to believe that the income of such claimant, or any other particular required by this Act to be declared or set forth in such declaration and statement as aforesaid, is not truly or fully declared or set forth therein in any specified particular, then and in such case the merits of such claim for exemption shall be heard and determined upon appeal before the Commissioners for General Purposes, under and subject to such rules, regulations, and penalties as other appeals under this Act are directed to be heard and determined, and if such claim shall be allowed on appeal as aforesaid the said Commissioners for General Purposes shall grant and issue all necessary certificates consequent thereon.

If inspector or surveyor object to the claim the same to be determined by the Commissioners for General Purposes.

5 & 6 Vict. c. 35, s. 165. On proof that persons entitled to exemption have been charged duties by deduction from any annuity, dividend, rent, &c., Commissioners to grant a certificate thereof, which shall authorize the

165. Provided always, that if it shall be proved to the satisfaction of the Commissioners for General Purposes that any person whose claim for exemption has been allowed in manner aforesaid has been charged to and has paid any of the duties hereby granted, by way of deduction from any rent, annuity, interest, or other annual payment to which he may be entitled, and from which a deduction is authorized to be made by this Act, or that such person has been assessed and has paid such duties in respect of any annuity, dividend, pension, or stipend payable to him out of the public revenue of the United Kingdom, then and in such case it shall be lawful for the said Commissioners for General Purposes to certify what shall have been so proved before them to the Commissioners for Special Purposes at the chief office of Inland Revenue in England, by a certificate, in such form as

shall be provided under the authority of this Act, specifying and describing the amount and the particular nature of the payment out of which and the name and place of abode of the person by whom such deduction as aforesaid shall have been made, and specifying also the amount and description of the annuity, dividend, pension, or stipend in respect of which such claimant has been assessed, and the duties whereon he has paid; and thereupon the said last-mentioned Commissioners shall issue to such claimant an order for the repayment to him of the amount of the duties certified to have been paid as aforesaid, and such order shall be directed to the Receiver General of Inland Revenue, or to an officer for receipt or collector of the duties granted by this Act, or to a distributor or sub-distributor of stamps, and shall authorize and require the repayment of the said duties in like manner as is hereinbefore provided with respect to the allowances to be granted under No. V. of Schedule (A.) of this Act.

collector or receiver to repay the amount of such duties.

166. If any person shall be guilty of any fraud or contrivance in making any such claim, or in obtaining any such exemption or any such certificate as aforesaid, or shall fraudulently conceal or untruly declare any income or amount of income, or any sum which he may have charged or been entitled under the authority of this Act to charge against any other person, or which he may have deducted or retained, or have been or be entitled as aforesaid to deduct or retain, from or out of any payment to which such person claiming exemption as aforesaid may be or become liable, or if any such person shall fraudulently make a second claim for the same cause, every such person so offending in any of the cases aforesaid shall forfeit the sum of twenty pounds, and treble the duty chargeable in respect of all the sources of his income, and as if such claim had not been allowed; and if any person shall knowingly and wilfully aid, abet, or assist any such person in committing any such fraud as aforesaid, the person so aiding, abetting, or assisting shall forfeit the sum of fifty pounds.

5 & 6 Vict. c. 35, s. 166. Penalty for making fraudulent claims of exemption.

1905. *The Lord Advocate* v. *McLaren*, 7 Sc. Ses. Cas. 5th Series, 984; 5 Tax Cas. 110; 42 Sc. L. R. 762.

A person found guilty under sect. 166 of untruly declaring his income is liable although no exemption or abatement has in fact been allowed.

The treble duty is calculated on the whole income, including income upon which duty has been already deducted and paid.

Per Lord Kinnear, the declaration must be not merely inaccurate, but false and untruthful.

The Court of Session has no jurisdiction to modify the penalties.

167. The annual value of lands, tenements, hereditaments, or heritages belonging to or in the occupation of any person claiming

5 & 6 Vict. c. 35, s. 167. Income aris-

ing from lands, how to be estimated with reference to claims for exemption.

the said exemption shall be estimated, for the purpose of ascertaining his title to such exemption, according to the rules and directions contained in the said several Schedules (A.) and (B.) respectively; where such claimant shall be the proprietor as well as the occupier of any such lands, tenements, hereditaments, or heritages, the amount deemed to be the income arising from the occupation of such lands, tenements, hereditaments, or heritages shall be added to the amount of the full annual value thereof, and the aggregate amount shall be deemed for the purpose aforesaid to be the income of such claimant arising from the lands, tenements, hereditaments, or heritages of which he shall be the proprietor and occupier as aforesaid.

The parts of this section omitted were repealed by the Finance Act, 1896.

Lord Adam in 1895. *Cooke* v. *Fry*, 22 Sc. Ses. Cas. 4th Series, 422; 32 S. L. R. 341; 3 Tax Cas. 335.

"The argument was maintained to us, that, on the construction of the 167th section, in the case of a particular individual who was claiming a deduction from his alleged aggregate income, the mere fact that he was assessed under Schedule (A.) or Schedule (B.) made it imperative that the sum so assessed should be taken as part of his income. I do not think that that is the proper interpretation of sect. 167. I think it is dealing with money and income only, and is determining nothing whatever as to what shall be taken to be income. It says that the annual value of lands, and so on, in the occupation of any person claiming exemption shall be estimated, for the purpose of ascertaining his title to such reduction, under Schedule (A.), but that is assuming a case where such value is income, and is to be taken into consideration." Lord Adam in *Cooke* v. *Fry*.

59 & 60 Vict. c. 28. Annual value for the purpose of exemption or abatement from income tax under Schedule (B.).

The Finance Act, 1896—

27. For the purposes of any claim to exemption, relief, or abatement from income tax, the income arising from the occupation of lands, tenements, hereditaments, and heritages chargeable under Schedule (B.) in the Income Tax Act, 1853, shall be taken to be one-third of the annual value thereof under that schedule, except that if any person occupying, either as owner or otherwise, any lands for the purpose of husbandry only shows at the end of any year, to the satisfaction of the General Commissioners of Income Tax, that his profits and gains arising from the occupation of such lands during the year fell short of one-third of the said annual value thereof, the income arising from the occupation shall be taken at the actual amount of such profits and gains, and if the whole of the income tax has been paid, the amount overpaid shall be certified and repaid in manner provided by section 133 of the Income Tax Act, 1842.

5 & 6 Vict. c. 35, s. 168. Joint tenants, &c. may severally claim abatements.

The Income Tax Act, 1842—

168. Coparceners, joint tenants, or tenants in common of the profits of any property whatever, and any joint tenants or tenants of lands or tenements in partnership, being in the actual and joint

occupation thereof in partnership, and entitled to the profits thereof in shares, and personally labouring therein, on managing the same, and any partners carrying on trade or exercising any profession together, and entitled to the profits thereof in shares, and personally acting therein, may severally claim such exemption according to their respective shares and interests in the manner before directed; and such claims, being duly proved to the satisfaction of the Commissioners to whom the same are made, may be proceeded upon as in the cases of several interests: Provided always, that the profits so arising shall not in any case be charged separately to the duty in respect of the occupation of lands, where lands shall be let or underlet, without relinquishing the possession by the lessor, or where the lessee or tenant shall not be exclusively in the possession and occupation of the land so let. Exceptions.

As to joint incomes of husband and wife, see Married Women, *post*, p. 328.

169. Provided always, that every such claim for exemption shall be made to the Commissioners of the district where the claimant shall reside, whether such claimant shall be personally charged in such district or not, except where the whole income of the claimant shall arise from an office or employment of profit the duties whereon are cognizable before the Commissioners of a department of office, or from a pension or stipend, in all which cases the claim may be made to and allowed by the Commissioners of such department wherein the said duties are cognizable under the regulations of this Act, and if such claimant shall be out of the United Kingdom, an affidavit, stating the several matters required by this Act, taken before any person having authority to administer an oath in the place where such claimant shall reside in any matter relating to any part of the public revenue of the United Kingdom, may be received by the respective Commissioners for executing this Act in relation to the assessment on which such claim shall be founded.

5 & 6 Vict. c. 35, s. 169. Claim to be made where the claimant resides, or in the case of offices, pensions, and stipends, before the Commissioners of the department. Persons out of Great Britain may claim by affidavit.

170. Any such claim for exemption may be made by any guardian, trustee, attorney, agent, or factor, on account of others, in any case where satisfactory proof shall be made that the party claiming such exemption is unable to attend in person, or such claim may be made by the several persons acting in any of the characters hereinbefore described, in such manner as they may act for others, for the purpose of being assessed on their account in the first instance as hereinbefore directed.

5 & 6 Vict. c. 35, s. 170. Claims may be made by agents or trustees on account of others.

23 Vict. c. 14, s. 10.

The Income Tax Act, 1860—

10. No claim for repayment of duty under this Act, or any former Act relating to the income tax, shall be allowed, unless it shall be made within three years after the end of the year of assessment to which the claim shall relate.

7. Collection.

5 & 6 Vict. c. 35, s. 172. Commissioners to issue duplicates of assessments to collectors, with warrants to collect the same.

The Income Tax Act, 1842—

172. The respective Commissioners executing this Act in relation to any of the duties hereby granted shall, within one calendar month after the first day of hearing appeals, all appeals then made being first determined, issue out and deliver to the respective collectors duplicates of the assessments of the aforesaid duties charged at the respective rates mentioned in the respective schedules of this Act, together with their warrants, as directed by the Taxes Management Act, 1880, for the speedy and effectual levying and collecting of the said duties assessed under this Act, as the same shall become payable, distinguishing the amount charged under each of the said schedules: Provided always, that all such duties as shall be assessed or charged under any of the provisions of this Act, if not paid, levied, or collected according to the directions herein mentioned, shall be recoverable as a debt to the Queen's Majesty, with full costs of suit, and all charges and expenses attending the same; and when so recovered the said duties shall be paid to the proper officer for receipt, in aid of the parish or place answerable for the same.

Jervis, C. J., in 1850. *Kepp* v. *Wiggett*, 10 C. B. 51; 14 Jur. 1337. Maule, J., *S. C.*

"The assessments and warrants cannot be given out for collection until the appeals are disposed of." Jervis, C. J., in *Kepp* v. *Wiggett*.

"The Act does not, I think, intend that there shall be any collection until the time for appealing has expired; it would probably be inconvenient if it were given before." Maule, J., *S. C.*

Part of this section is re-enacted in the Taxes Management Act, 1880, s. 83, *infra*.

43 & 44 Vict. c. 19, s. 82.

The Taxes Management Act, 1880—

Time for Payment.

Duties, when due.

82.—(1.) In England the land tax and the duties, except only such duties of income tax as are payable by way of deduction, or are assessable in respect of railways, and in Ireland the income tax (with the like exceptions as in England) in every assessment for every year shall be payable on or before the first day of January in such year.

(2.) In Scotland the land tax and duties, except only such duties of income tax as are payable by way of deduction, in every assess-

ment for every year shall be payable on or before the first day of January in such year.

(3.) The land tax and duties included in any assessment whatever for any year, signed and allowed as by this Act directed on or after the first day of January in any such year, shall be deemed to be due and payable on the day next after the day on which such assessment may be signed and allowed by the Land Tax Commissioners or General Commissioners respectively. Duties assessed after 1st of January.

Collectors' Duplicates.

83.—(1.) When and so soon as any assessments of the land tax and duties, or any of them, shall have been signed and allowed by the Land Tax Commissioners and General Commissioners respectively, and the time for hearing appeals against such assessments shall have expired, the said respective Commissioners shall forthwith sign and seal respectively one duplicate of every land tax assessment and two duplicates of every assessment of the duties, which duplicate shall be duly prepared by the clerk to the said respective Commissioners on the prescribed forms. 43 & 44 Vict. c. 19, s. 83. Clerk to prepare duplicates.

(2.) The respective Commissioners shall deliver the duplicate of the land tax assessment, and one of the said duplicates of the assessment of the duties, together with warrants for collecting the same in the prescribed form to the collector of the parish for which the assessments are made, and the other of the said duplicates of the assessment of the duties they shall deliver to the surveyor for the district. The assessments shall be kept by the clerk for the use of the said Commissioners respectively. Delivery to collectors and surveyors.

(3.) A collector who has been required to give security under this Act shall not have delivered to him his duplicates and warrants until he has given such security.

See note to the Income Tax Act, 1842, s. 172, *supra*, p. 90.

Additional First Assessments.

84.—(1.) Any assessments not made, or against which any appeal shall be depending, when the first assessments are signed and allowed, shall, on the making or determining of the same, from time to time be added to such first assessments, and to the respective duplicates thereof, by being included in a separate form of assessment and duplicate, and the duties therein which ought to have been previously collected and paid shall be collected, levied, and paid by the collector. 43 & 44 Vict. c. 19, s. 84. Cases not then determined to be added to first assessments.

(2.) Any person having in his custody or possession any such duplicate, and refusing to deliver over the same to the collector

appointed in conformity with this Act, on demand made by him for the same, shall incur a penalty of one hundred pounds.

Demand.

43 & 44 Vict. c. 19, s. 85. Collectors to demand duties;

85.—(1.) Every collector shall, when the land tax and the duties become due and payable, make demand of the several sums contained in the duplicates given him by the Land Tax and General Commissioners in charge to collect from the persons charged therewith, or at the places of their last abode, or on the premises charged with the assessment or duties, as the case may require.

(2.) The collectors of house duty and income tax under Schedules (A.) and (B.) shall, in the demand note delivered previous to payment, distinctly describe the property and specify the amount of the assessment and the rate at which the duty or tax is charged upon such assessment.

to give receipts.

(3.) On payment of the land tax and the duties the collector shall give acquittances under his hand on the prescribed form (without charge for such acquittances) unto the persons who pay the same.

44 & 45 Vict. c. 12, s. 23. Particulars to be stated in collectors receipts.

The Customs and Inland Revenue Act, 1881—

23. Where any collector of the duties on inhabited houses and of income tax under Schedules (A.) and (B.) has not, in a demand note delivered previous to payment, distinctly described the property assessed, and specified the amount of the assessment, and the rate at which the duties are charged, the description of the property, the amount of the assessment, and the rate of charge shall be specified in the receipt.

Recovery.

5 & 6 Vict. c. 35, s. 185. Recovery of penalties and duties.

The Income Tax Act, 1842—

185. All pecuniary penalties imposed by this Act shall and may be sued for, recovered, and applied in such manner and form as is directed in the Taxes Management Act, 1880, the regulations whereof are hereby made applicable to the duties granted and the penalties imposed by this Act; and that in any action, suit, or proceeding, by or on the behalf of her Majesty, for the recovery of any such duties or penalties respectively granted or imposed by this Act, such duties and penalties respectively shall be recoverable with full costs of suit, and all charges and expenses attending the same: Provided always, that wherever by this Act any increased rate of duty is imposed as a penalty, or as part of or in addition to any penalty, every such penalty and all such increased rate of

duty may be added to the assessment, and be collected and levied in like manner as any duties included in such assessment may be collected and levied.

The Taxes Management Act, 1880— 43 & 44 Vict. c. 19, s. 86.

86.—(1.) If a person refuses to pay the sum charged upon him by virtue of the Land Tax Acts, the Tax Acts, or this Act, on demand made by the collector, according to the assessments and warrants to him delivered by the Land Tax and General Commissioners, such collector may, and he is thereunto authorized and required, for non-payment thereof, to distrain upon the messuages, lands, tenements, and premises charged with such sum of money, or to distrain the person so charged by his goods and chattels, and all such other goods and chattels as the collector is hereby authorized to distrain, without any further authority from the said respective Commissioners for that purpose than the warrant to such collector delivered on his appointment. Collectors, on payment of duty being refused, to distrain.

The collectors appointed each year have authority to distrain for the duties, if unpaid, although the year has expired, until the day of receipt appointed under sect. 100 of the Taxes Management Act, 1880. *Elliott* v. *Yates*, [1900] 2 Q. B. 370, C. A. *Elliott* v. *Yates*.

(2.) For the purpose of so levying a distress, a collector may, upon warrant under the hands and seals of the said respective Commissioners, obtained for that purpose, break open in the daytime any house or premises, calling to his assistance any constable or other peace officer for the parish, group, or division where any refusal, neglect, or resistance shall be made. And it shall be the duty of all constables or other peace officers, when so required, to aid and assist the collector in the execution of such warrant and in levying the distress in the house or premises. May, under warrant, break open houses.

(3.) A levy or warrant to break open shall be executed by or under the direction and in the presence of the collector. Levy.

(4.) Every distress levied by a collector shall be kept for the space of five days at the costs and charges of the person so refusing to pay.

(5.) If the said person does not pay the respective sums of money so due within the said five days, then the said distress shall be appraised by two or more of the inhabitants where the said distress is taken, or other sufficient persons, and there be sold by public auction by the said collector or his deputy, for payment of the said money; the overplus coming by the said distress (if any there be), after deducting the said money and also the costs and charges of taking, keeping, and selling the said distress, which

costs and charges the said officer is hereby authorized to retain, shall be restored to the owner thereof.

Powers of 33 Geo. 3, c. 55, may be used in recovery of arrears.

(6.) The provisions in regard to warrants of distress contained in an Act passed in the thirty-third year of his late Majesty King George the Third, intituled "An Act to authorize justices to impose fines upon constables, overseers, and other peace and parish officers for neglect of duty, master of apprentices for ill usage of such their apprentices, and also to make provision for the execution of warrants of distress granted by magistrates," shall apply to levies and distraints made by collectors for recovery of the duties or land tax.

1878, *Re Henley & Co.*, L. R. 9 C. D. 469.

The right to distrain is not taken away by the Companies Act, 1862, because the Crown is not specially mentioned; and so where a company is being wound up under the provisions of the Companies Act, 1862, the Crown has a right to payment in full of a debt due from the company for income tax before the commencement of the winding-up, in priority to the other creditors. *Re Henley & Co.* See also in *Re Oriental Bank Corporation* (1885), 28 C. D. 643.

43 & 44 Vict. c. 19, s. 87. Collectors advancing duties may levy the sum paid.

87. If a collector advances and pays over to the collector of inland revenue any sum of money for or on account of the land tax or the duties assessed on any other person, whether at his request or not, such collector may, in default of repayment to him at any time within the space of six months after such payment, levy the land tax or the duties by the like ways and methods as such collector might have levied the same before such payment thereof to such collector of inland revenue, and as if the same had not been paid or satisfied.

43 & 44 Vict. c. 19, s. 88. No goods to be taken, except at the suit of landlord, for rent, unless party pay arrears.

88.—(1.) No goods or chattels whatever belonging to any person at the time any of the duties or the land tax became in arrear shall be liable to be taken by virtue of any execution or other process, warrant, or authority whatever, or by virtue of any assignment, on any account or pretence whatever, except at the suit of the landlord for rent, unless the party at whose suit the said execution or seizure shall be sued or made, or to whom such assignment shall be made, shall, before the sale or removal of such goods or chattels, pay or cause to be paid to the collector all arrears of the said duties or land tax which shall be due at the time of seizing such goods or chattels, or which shall be payable for the year in which such seizure shall be made, provided such duties and land tax shall not be claimed for more than one year.

(2.) In case the duties and land tax shall be claimed for more than one year, then the said party at whose instance such seizure shall have been made, paying the said collector the aforesaid duties and land tax due for one whole year, may proceed in his seizure

as he might have done if no duties and land tax had been so claimed; but in case of refusal to pay the said duties and land tax the said collector is hereby authorized and required to distrain such goods and chattels, notwithstanding such seizure or assignment, and to proceed to the sale thereof according to this Act, in order to obtain payment of the whole of the said duties and land tax so assessed, together with the reasonable costs and charges attending such distress and sale; and every such collector so doing shall be indemnified by virtue of this Act.

43 & 44 Vict. c. 19, s. 89. Commissioners may commit defaulter.

89. If any person shall refuse or neglect to pay any sum charged upon him by virtue of the Tax Acts or this Act within ten clear days after demand as aforesaid, and no sufficient distress can or may be found whereby the same may be levied, the General Commissioners may by warrant under their hands and seals commit such person to prison, there to be kept without bail until payment shall be made of that sum or security given for payment thereof, together with such further sum as the said Commissioners shall adjudge to be reasonable for the costs and expenses of apprehending and conveying to prison such person; and every such person shall be detained and kept in prison according to the tenor and effect of such warrant.

Certificates of Removal.

43 & 44 Vict. c. 19, s. 90. Commissioners to issue certificates of removal.

90.—(1.) Whenever duties are charged upon and unpaid by a person who shall have removed from the parish in which the assessment to such duties is made, the General Commissioners for such parish shall sign and transmit by the intervention of the Board a certificate thereof to the General Commissioners acting within the parish where the person making such default of payment shall have removed to or happen to reside in or be, which last Commissioners shall raise and levy the said duties charged upon the person removed as aforesaid, and cause them to be paid over to the collector of inland revenue; and where any such person shall have removed to another parish within the jurisdiction of the Commissioners by whom the assessment was made they may, by certificate, direct and authorize the collector for such last-mentioned parish to raise and levy the duties charged upon and unpaid by such person.

(2.) Whenever any person charged with the duties in any part of Great Britain or Ireland removes to any other part of Great Britain or Ireland without paying and discharging the duties charged upon him, the General Commissioners, or Special Commissioners acting

as General Commissioners for the parish in which the assessment of such duties in default was made, shall sign and transmit by the intervention of the Board a certificate thereof to the Commissioners acting for the parish in the other part of Great Britain or Ireland to which such person making such default of payment shall have removed or happen to reside at, which last-named Commissioners shall raise and levy the said duties charged upon the person removed as aforesaid, and cause the moneys so raised and levied to be paid over to the Exchequer.

(3.) Where no sufficient distress can be found within the district of the said Commissioners for the parish to which any such defaulter may have removed, they are hereby authorized and required, by warrant under their hands and seals, to commit the person so making default of payment to prison, there to be kept without bail until payment shall be made of the said duties, or security be given for payment thereof, and of all reasonable costs and expenses, including costs for apprehending such person and conveying him to prison.

47 & 48 Vict. c. 62, s. 7. The Revenue Act, 1884—

7. The Taxes Management Act, 1880, shall be amended as follows:—

(1.) The word "parish" in section ninety means in Scotland county or burgh, and with respect to the duties contained in the certificate mentioned in such section, the same shall in Scotland be recovered under the provisions contained in section ninety-seven.

Prisoners.

43 & 44 Vict. c. 19, s. 91. Release of prisoners. The Taxes Management Act, 1880—

91. By the direction of the Treasury or Board the General Commissioners shall issue their warrant to the gaoler or keeper of the prison in which any such person may be detained under their warrant as aforesaid for the liberation of such prisoner, and upon the receipt of such first-mentioned warrant such gaoler or keeper shall forthwith release and discharge out of custody such prisoner if for no other cause than as set forth in the warrant of commitment he shall be detained.

Parents and Executors.

5 & 6 Vict. c. 35, s. 173. Parents and guardians The Income Tax Act, 1842—

173. Where any person chargeable with the duties hereby made payable as aforesaid shall be under the age of twenty-one years,

or where any person so chargeable shall die, in every such case the parents, guardians, or tutors of such infant, upon default of payment by him, and the executors and administrators of the persons so dying, shall be and are hereby made liable to and charged with the payments which the said infant ought to have made, or the person so dying was chargeable with; and if such parents, guardians, or tutors, or such executors or administrators, shall neglect or refuse to pay as aforesaid, it shall be lawful to proceed against them in like manner as against any other person making default of payment of the said duties; and all parents, guardians, or tutors making payment as aforesaid shall be allowed every sum paid for such infants in their accounts, and all executors and administrators shall be allowed to deduct all such payments out of the assets of the person so dying.

liable for infants, and executors for persons dying.

This section is re-enacted in the Taxes Management Act, 1880, s. 92, *infra*.

The Taxes Management Act, 1880—

43 & 44 Vict. c. 19, s. 92. Liability of parents, guardians, and executors.

92. Where a person chargeable with the duties is under the age of twenty-one years, or where a person so chargeable shall die, in such case the parents and guardians of such infant, on default of payment by such infant, and the executors and administrators of the person so dying, shall be liable to and charged with the payments which the said infant ought to have made and the person so dying was chargeable with; and if such parents or guardians, or such executors or administrators, neglect or refuse to pay as aforesaid, it shall be lawful to proceed against them in like manner as against any other person making default of payment of the duties; and all parents and guardians making payment as aforesaid shall be allowed all sums paid for such infants in their accounts; and all executors and administrators shall be allowed to deduct all such payments out of the assets and effects of the person so dying.

See also pp. 327 and 329.

Number or Letter Assessments.

43 & 44 Vict. c. 19, s. 93. Assessments under number or letter in arrear.

93. Whenever the duties on any assessment made under a number or letter in pursuance of the provisions of the Income Tax Act, 1842 (*a*), become due and in arrear, the General Commissioners shall cause the said assessments to be added to the duplicates in the hands of the respective collectors to whom the collection of the duties assessed on persons by names shall have been intrusted to be

collected by the same ways and methods and under the like powers and provisions as such last-mentioned duties are directed to be collected.

(*a*) See sect. 137, *post*, p. 300.

Special Assessments.

43 & 44 Vict. c. 19, s. 94. Notification of special assessments to collectors of inland revenue.

94. An extract from any assessment made by the Special Commissioners, certified under the hand of their clerk, in such form as the Board may prescribe, shall be a sufficient authority to the proper collector of inland revenue to whom such extract may be transmitted to receive, bring to account, and give discharges for the duties of income tax included in such extract, and paid to him.

Savings.

43 & 44 Vict. c. 19, s. 95. Saving as to English and Irish railways.

95. Railway companies in England and Ireland shall pay the duties of income tax, under Schedule (D.), by four quarterly payments; namely, on or before the twentieth day of June for the first quarterly instalment, and on or before the twentieth days of September, December, and March in each year for the second, third, and fourth quarterly instalments respectively.

Recovery in Ireland.

43 & 44 Vict. c. 19, s. 96. Savings as to Ireland.

96. In the application of this Part to the collection, levy, and recovery of the duties assessed under Schedules (A.) and (B.) of the Income Tax Acts in Ireland, nothing shall alter the effect of or supersede section seventeen of the Income Tax Act, 1853; and any power which in England would be exercised in the recovery of the duties by a collector for a parish or group may, in Ireland, be exercised by a collector for an union or other collecting district.

Recovery in Scotland.

43 & 44 Vict. c. 19, s. 97. Recovery of duty refused in Scotland.

97. In Scotland the following provisions shall have effect:

(1.) Upon certificate made to them by the collector for the division, district, or county, that any of the duties or land tax are due and not paid, the General Commissioners or Land Tax Commissioners respectively or sheriff depute or substitute for the county shall issue a warrant for the said collector recovering the said duties or the land tax by poinding or distraining the goods and effects of any person entered in such his certificate as being a defaulter.

(2.) Such warrant shall be executed by the constables or sheriff's officers of the county.

(3.) The goods and effects so pointed or distrained shall be detained and kept on the ground or at the house where the same were pointed or distrained, or in such other place, of which the owner shall have notice, near to the said ground or house, as the officer or constable so pointing and distraining the same shall think proper, for the space of five days, during which time the said goods and effects shall remain in the custody of the said officer or constable liable to the payment of the whole duty in arrear, and to the costs to be paid to the officer or constable who pointed the same, as hereinafter directed, unless the owner from whom the same were pointed and distrained shall redeem the same within the said space of five days by payment of the said duties and land tax in arrear and costs to the officer or constable, to be settled in the same manner as if the said goods and effects had been sold as hereinafter directed.

(4.) The goods and effects so pointed or distrained shall, after the expiration of the said five days, be valued and appraised by any two persons to be appointed by the officer or constable (which two persons shall be obliged to value the same, under the penalty of forty shillings sterling for each neglect or refusal), and shall be sold and disposed of, at a sum not less than the value, by the officer or constable who does point the same.

(5.) The value shall be applied in the first place to the satisfaction and payment of the duties or land tax owing by the person whose goods are so pointed, and in the second place to the payment for the trouble of the officer or constable so pointing, at the rate of two shillings per pound of the duties for which the goods shall be so pointed and distrained unless the owner from whom the same were pointed or distrained shall redeem the same by payment of the appraised value, within the space of five days after the valuation, to the officer who pointed the same.

(6.) In case any surplus remains of the price or value after payment of the said duties, and after payment of what is allowed to be retained by the officer or constable in manner herein directed, such surplus shall be returned to the owner from whom the goods were pointed or distrained.

(7.) In case no purchaser appears at the said sale, then the said goods and effects so pointed and distrained shall be consigned and lodged in the hands of the sheriff depute of the county, or his substitute, and if not redeemed by the owner within the space of five days after the consignment in the hands of the said sheriff depute or substitute, the same shall be rouped, sold, and disposed of, by order of the sheriff, in such manner and at such time and place as he shall appoint, he always being liable to the payment of the

duties to the said collector, and to payment to the officer or constable who shall have poinded and distrained the same, for their trouble and expense as before stated, and to the fees due to the officer or constable, and shall be in the third place entitled to one shilling per pound of the value of the goods so disposed of, for his own pains and trouble, after preference and allowance of the said duties, and of what is appointed to be paid to the officer or constable for their trouble.

(8.) There also shall be allowed to the officer or constable so poinding and distraining the expense of preserving the said goods and effects, and of maintaining the cattle, if there should happen to be any among the goods and effects so poinded and distrained, from the time of poinding and distraining the same, during the period allowed to the owner to redeem them, and also the expense of the sale; and in like manner the expense shall be allowed to the sheriff for preserving and maintaining the goods or cattle poinded and distrained, during the period that the owner is allowed to redeem after consignment in his hands, and until the sale thereof, and also the expense of the sale; and where no goods or effects sufficient for payment of the said duties can be found to be so poinded and distrained, and the person liable neglects or refuses to pay the same, in every such case the Commissioners, or the sheriff depute or substitute, is hereby authorized, by warrant, to commit such person to prison, there to be kept without bail until payment shall be made or security for payment be given.

(9.) Every auctioneer or seller by commission, selling by auction in Scotland any goods or effects whatsoever by any mode of sale at auction, shall, at least three days before he begins any sale by way of auction, deliver or cause to be delivered to the collector of the said duties respectively within whose district such sale is intended to be, a notice in writing, signed by such auctioneer or seller by auction, specifying therein the particular day when such sale is to begin, and the name and surname of the person, with his place of residence, whose goods and effects are to be sold.

(10.) If any such auctioneer or seller by auction shall sell any such goods and effects by way of auction, without delivering the notice hereinbefore required to be delivered, every such auctioneer, or person selling by auction, offending therein shall for such offence incur a penalty of fifty pounds.

47 & 48 Vict. c. 62, s. 7 (2).

The Revenue Act, 1884—

7.—(2.) No moveable goods and effects belonging to any person in Scotland at the time any of the duties or land tax became in arrear or were payable shall be liable to be taken by virtue of any

poinding, sequestration, or diligence whatever, or by any assignation, unless the person proceeding to take the said goods and effects shall pay the duties or land tax so in arrear or payable, provided such duties or land tax shall not be claimed for more than one year; and in case the duties or land tax shall be claimed for more than one year, then the party proceeding to take the said goods and effects after paying the duties and land tax for one whole year may proceed as he might have done if no duties and land tax had been so claimed. But if the said party refuses to pay the duties and land tax for one year, the duties and land tax so claimed shall be recovered by poinding, distraining, and selling the said moveable goods and effects notwithstanding under warrant obtained in conformity with the provisions contained in section ninety-seven.

The Taxes Management Act, 1880— 43 & 44 Vict. c. 19, s. 98.

Payment in Postage Stamps.

98. The Treasury may authorize collectors to receive and may make regulations for the receipt of postage stamps for payment of land tax and the duties, or any of them, payable in Scotland or Ireland; such postage stamps shall be delivered over to the Postmaster General or his officers, and the amount or value thereof paid out of the revenue of the post office to the inland revenue, and accounted for as moneys arising from the said land tax and duties.

In Scotland or Ireland payment may be made in postage stamps.

Payment by Post Office Orders.

99.—(1.) A person liable to the payment of land tax or the duties in Scotland having received the accustomed notice thereof, may, within twenty-one days after receiving such notice, produce the same at any money order office of the General Post Office in Scotland, and pay to the postmaster there the sum payable according to such notice, and thereupon the said postmaster shall deliver to him a post office order payable at the General Post Office in London to the Receiver General of Inland Revenue for the said sum, less the commission for such order, which order such person shall forthwith transmit to the collector at the office for receipt in a prepaid letter, specifying the particulars of the payment in such form as shall be prescribed and provided by the Board for that purpose.

43 & 44 Vict. c. 19, s. 99.

In Scotland taxes may be paid by post office orders.

(2.) Upon the receipt of the said order and letter, with the particulars and the form aforesaid, the collector shall credit the person named in the said letter with the amount specified in the said order,

and with the said commission, in like manner as if the same had been paid to the collector in cash.

(3.) The provisions of this section shall, if the Treasury direct, be made applicable to and have operation in any parish in England in and for which the collector is appointed by the Board.

8. Receipt and Account.

43 & 44 Vict. c. 19, s. 100.

The Taxes Management Act, 1880—

Receipts.

Appointment of receipt.

100.—(1.) The Board may appoint in each year days of receipt for each county, division, parish, or group, and may adjourn such receipts from time to time.

(2.) At such receipt so appointed every collector for each county, division, parish, or group shall account for the full amount of duties, land tax, and moneys given him in charge to collect.

(3.) The Board may require a collector to remit weekly or oftener to the Exchequer in anticipation of the receipt the amount of his collection, and may prescribe regulations as regards remittances and the mode thereof, which all collectors shall obey.

43 & 44 Vict. c. 19, s. 101. Collectors to account after the 1st January in every year.

101. The collector shall pay over or account for the land tax, duties, and moneys given him in charge to collect to the collector of inland revenue or the proper officer for receipt on the day to be appointed for the receipt of the land tax and the duties next after the first day of January in every year.

43 & 44 Vict. c. 19, s. 102. Unlawful receipt of public moneys.

102. If a person not duly appointed for that purpose or authorized by the Board in that behalf knowingly or wilfully takes or receives from a collector any sum of money arising from the duties or the land tax collected or received by such collector, the person so taking or receiving such sum of money shall forfeit double the amount of the sum so taken or received, such forfeiture to be recovered in the High Court.

43 & 44 Vict. c. 19, s. 103. Proceedings at receipts.

103. On the appointed day of receipt, every collector for the division, district, group, or parish for which such receipt is held shall attend such receipt, and

(a) Pay over to the collector of inland revenue or otherwise, as and if so required to do by the Board, all moneys received by him, and then in his hands and unaccounted for as collector, for which payments such collector shall receive receipts or discharges:

(b) Deliver then, or to the Land Tax Commissioners and General Commissioners of the division respectively within three days afterwards, schedules of arrears in the prescribed form, with affidavits subscribed to be made on his oath or affirmation, and by him signed, setting forth the christian and surname of each defaulter in his parish or group from whom he has demanded but has not then received payment of the land tax, duties, or moneys given him in charge to collect, and the respective sums then in arrear from each such defaulter:

(c) Bring with him and produce to the collector of inland revenue or surveyor, whenever by either of them required, his duplicate of assessment, showing the respective sums by him collected and received duly written off in the said duplicates:

(d) Answer any lawful question demanded of him by the collector of inland revenue or surveyor touching the duties, moneys, or taxes given him in charge to collect.

104. At the times appointed for the delivery of schedules of arrears every collector of inland revenue may:

43 & 44 Vict. c. 19, s. 104. Collectors of inland revenue may administer oath and put questions.

(a) Administer an oath to every collector (or being a person by law allowed to declare or affirm instead of swearing, a solemn affirmation) that he has fully paid all the sums by him collected or received of or for the land tax or the duties, and has fully accounted for all sums not collected or received in the schedule then delivered, and every collector shall true answer make to all such questions as shall be demanded of him:

(b) Examine each collector on any matter touching the sums collected and the sums in arrear, and the substance of the answer or answers which any collector shall give on such examination shall in his presence be reduced into writing, and read to him, with liberty to alter and amend the same in any particular; and every such collector shall write or sign his assent to the same in his own handwriting or sign, and in his usual manner of writing or signing the same.

Schedules of Arrears.

105.—(1.) Every schedule of arrears shall remain with the General Commissioners for forty days, during which period the collector shall give notice of such schedule to the defaulters named therein in such manner as the Commissioners direct.

43 & 44 Vict. c. 19, s. 105. The schedule of arrears to be ground of process.

(2.) A defaulter within the like period may pay his arrears to the collector, and the Commissioners shall discharge the arrears so paid from the schedule.

(3.) The Commissioners may issue fresh warrants to collect any of the arrears within the said forty days, and during that period use any lawful methods for the recovery of the said arrears, or direct the arrears to be levied by the collector under his former warrant.

(4.) Such fresh warrants may be directed to the collector or to any other person whom the Commissioners shall think proper, with authority to levy by distress and sale in the manner directed by the Tax Acts or this Act the sums in arrear, together with all costs and expenses attending the said process and the execution thereof; and the sums so levied, after deducting the said costs and expenses, shall be paid to the collector of inland revenue, or otherwise as the Board may appoint, and shall be discharged from the schedule.

(5.) The person to whom such warrant is directed shall in the execution thereof act in obedience to the directions of the Commissioners.

(6.) On the expiration of the period of forty days a schedule of arrears may be certified to the High Court by and under the hands of the collector of inland revenue or of the General Commissioners.

43 & 44 Vict. c. 19, s. 106. Board may retain schedules.

106. The schedules of arrears when so certified shall be transmitted to the Board, who may before forwarding the same to the High Court direct the collector to use any method allowed by law for the recovery of any arrear therein included.

43 & 44 Vict. c. 19, s. 107. Failure to deliver such schedule.

107.—(1.) In default of the schedules of arrears being delivered by a collector at the receipt, or within the space of three days afterwards as aforesaid, the collector of inland revenue to whom the payments of the said duties shall not have been made at the times appointed for the receipt, may certify to the High Court the amount of the duties remaining unpaid to the best of his knowledge and belief, and the particular parish and the division where such failure has happened, together with the name of the collector of the said parish.

Levy of issues.

(2.) Such certificate of a default of a collector for non-delivery of a schedule of arrears shall be a sufficient authority to a judge of the High Court to cause immediate process to be issued out of the office of the Queen's Remembrancer against the collector.

(3.) Upon which writ the sheriff or other officer to whom the

said process shall be directed shall levy issues after the rate of one shilling for every twenty shillings of the sums so unpaid or unaccounted for by the said certificate, and shall pay the moneys so levied, after deducting the costs, charges and expenses to be settled and allowed by the Board, to the proper officer of inland revenue; and the said sheriff shall make immediate return of the said process to the High Court according to the due course thereof.

(4.) The Board, after payment of the duties in arrear so certified, may cause such issues to be remitted in whole or in part, after deducting thereout the costs and charges attending such process and levy, to be settled and allowed by them.

Schedules of Deficiencies.

43 & 44 Vict. c. 19, s. 108.

Collectors to make a return upon oath of persons from whom the duties cannot be collected.

108.—(1.) Every collector shall make a due return, fairly written on the prescribed form under his hand, to the General Commissioners, containing—

(a) The names, surnames, and places of abode of every person within his collection from whom he has not been able to collect or receive the duties for any of the causes mentioned in the section next following;

(b) The particular reason for returning each defaulter; and

(c) The particulars of the sum or sums charged upon every such person in default.

(2.) The Commissioners, after the examination of every collector on oath or affirmation, shall—

Schedules of discharge.

(i.) Ascertain the sums which, according to the Tax Acts, have been or may be discharged from any assessment for a cause specially allowed by such Acts, and make out their schedules of discharges containing such sums:

Schedules of default.

(ii.) Make out their schedules of defaulters containing—

(a) The sums with which each defaulter ought to be charged, and the particulars thereof; and

(b) The sums which have not been collected by occasion of the collector's neglect, and for which he shall be held liable, and which ought to be re-assessed on the parish.

(3.) The said Commissioners shall cause the said several particulars to be inserted by their clerk in schedules of discharge and default on the forms prescribed, and shall affix their hands and seals to such schedules.

(4.) The said Commissioners shall transmit their said schedules to the Board, which schedules shall be deposited at the head office of the Board.

43 & 44 Vict. c. 19, s. 109. Defaulters returned in schedule.

109. No collector shall insert in any schedule of deficiencies the name of a person to be returned into the High Court as not having paid the duties, unless such collector shall make oath, or make and subscribe a solemn affirmation (which said oath or affirmation shall be indorsed and certified on the said schedule), to the effect following; namely,

(a) That the sum for which such person is so returned in default is due and wholly unpaid either to such collector or to any other person for such collector, to the best of his knowledge and belief;

(b) That such person became bankrupt before the day on which the duties became payable, and had not goods and chattels sufficient whereon to levy such duties within the parish or limits for which such collector has been appointed at any time since such duties became payable; or

(c) That such person removed from the parish or limits for which such collector has been appointed before the day on which such duties became payable without leaving therein sufficient goods and chattels whereon such duties then payable could be levied; and

(d) That there were not nor are any goods and chattels of any person liable to the payment of such duties in arrear or any part thereof whereby the same or any part thereof might be levied.

Re-delivery of Books by Collectors.

43 & 44 Vict. c. 19, s. 110. Books to be delivered up by collector.

110. Every collector shall, on clearing his accounts for any of the duties or the land tax, deliver to the Board or Commissioners by whom he was appointed all duplicates of the assessment for the year and tax to which such accounts relate, together with the books of receipts and counterfoils furnished for his use.

Proceedings for Arrears.

43 & 44 Vict. c. 19, s. 111. Duties may be sued for in High Court.

111.—(1.) Any duties contained, charged, or assessed in or by any assessment thereof made under the Tax Acts or this Act, may be sued for and recovered, with full costs of suit, and all charges attending the same, from the person charged therewith in the High Court as a debt due to the Crown, or by any other ways or means whereby any debt of record, or otherwise due to the Crown, can or may at any time be sued or prosecuted for or recovered, as well as by the summary means specially provided by this Act, or the Tax Acts, for levying the said duties.

(2.) A schedule of arrears delivered on oath or affirmation by a collector and certified to the High Court as prescribed, and a schedule of defaulters made or purporting to be made in pursuance of this Act, and certified under the hands of the Board to the High Court, shall be sufficient evidence of a debt due to the Crown, and sufficient authority to a judge of the High Court to cause process to be issued against any defaulter named in any such schedule to levy the sum in arrear and unpaid by such defaulter.

(3.) The production of a schedule of arrears or defaulters made or purporting to be made in pursuance of this Act, and purporting to contain the name of a defaulter, shall be sufficient evidence of the sum mentioned in such schedule having been duly charged and assessed upon such defaulter, and of the same being due and owing, and in arrear and unpaid to the Crown.

Insupers.

43 & 44 Vict c. 19, s. 112. Parish to be set insuper for duties unaccounted for, and return made to High Court.

112.—(1.) In case there is a failure—

(a) To assess or charge the duties or land tax in any parish:

(b) To return the duplicates of the assessments of the duties or land tax made for any parish:

(c) To raise or pay the several sums charged upon any person for the duties or land tax in any parish:

the Board may at any time after such failure set insuper all sums so appearing in arrear, and may return such failure to the High Court by certificate thereof delivered to the Queen's Remembrancer.

(2.) Such return shall specify—

(i.) The parish and division and county where such failure has happened;

(ii.) The cause of such failure, so far as the same be known to the Board;

(iii.) The names of any two or more of the Land Tax Commissioners and General Commissioners for the division in which such failure has happened;

(iv.) The names of the assessors and collectors and the several persons belonging to such parish charged with the duties, and who shall have made failure in the payment thereof in case an assessment shall have been made.

(3.) Such Commissioners, assessors, and collectors, and any person charged with the duties or the land tax shall be respectively liable to process for such failure according to the exigency of the case.

(4.) Every parish so returned insuper for a sum not accounted for to the collector of inland revenue and contained in the duplicate of assessment to him delivered shall be liable to be re-assessed in respect of such sums so returned insuper, excepting in such cases as parishes are by special enactment relieved from liability to re-assessment.

(5.) The Queen's Remembrancer shall cause such certificate to be enrolled in his office. Such enrolment shall be a record in his office as valid and effectual to authorize the issuing of process against the county, division, parish, and person.

(6.) Such process shall be forthwith, and from time to time as there shall be occasion, issued out of the High Court on the application of the Board, against such of the said Commissioners, officers, or persons who shall have made such failure.

Recovery of Re-assessments.

43 & 44 Vict. c. 19, s. 113. Costs and duties re-assessed may be recovered as duties are recovered.

113. The authorities, powers, and provisions contained in this Act, or in the Tax Acts, or in the Land Tax Acts relating to the recovery of the duties and land tax, either under the warrant of the respective Land Tax Commissioners and General Commissioners directed to the collectors in their respective districts, or by process from the High Court, shall be applied, enforced, and put in execution for the levying and enforcing the payment of any sum assessed or re-assessed by the said Commissioners for duties or costs, either under the authority of this Act, or of any other of the said Acts.

Receipts exempted from Stamp Duty.

5 & 6 Vict. c. 35, s. 179. Receipts and other documents exempted from stamp duty.

The Income Tax Act, 1842—

179. No receipt, certificate of payment, affidavit, appraisement, or valuation, made or given in pursuance and for the purposes of this Act, shall be liable to any stamp duty.

9. Forms.

43 & 44 Vict. c. 19, s. 15. Forms in second schedule. The forms used to be those prescribed by the Board.

The Taxes Management Act, 1880—

15.—(1.) The forms in the Second Schedule to this Act, or forms to the like effect, varied as circumstances require, may be used, and shall be sufficient in law.

(2.) Every assessment, duplicate, charge, bond, warrant, notice of assessment or of demand, or other document required to be used in the assessing, charging, levying, and collecting of the duties and the land tax shall be made out, drawn, and prepared according

to the several forms as prescribed and supplied or approved by the Board from time to time, and shall be valid and effectual without stating the case or the facts or evidence in any more particular manner than is required in and by such forms.

(3.) The Board shall provide books of printed forms of receipts with counterfoils for the use of the collectors, and may from time to time prescribe regulations for the inspection and filling up and use of such books and counterfoils, to which regulations every collector shall conform. Books of receipts.

(4.) Any schedule, duplicate, or other document required to be on parchment by any Tax Act or Land Tax Act may, if the Board so direct, be on paper or other material as may be by such order prescribed, and then shall be as valid and effectual for all purposes as if it had been on parchment. Material of schedules, duplicates, &c.

(5.) No assessment, charge, warrant, or other proceeding which shall be made or shall purport to be made by virtue or in pursuance or in execution of this Act, or the Tax Acts, or Land Tax Acts, shall be quashed or deemed to be void or voidable for want of form, or be impeached or affected by reason of any mistake, defect, or omission therein, provided the person or property charged or intended to be charged or affected by any such proceeding be designated therein to common intent and understanding, and such proceeding be in substance and effect in conformity with or according to the intent and meaning of the said Acts. Proceedings not void for want of form or mistake.

16. Under this Act— 43 & 44 Vict. c. 19, s. 16.

(a) All notices and forms may be in writing or print, or partly in writing and print: Delivery of forms.

(b) All notices relating to the duties or the land tax that are required to be affixed on any place, or to be delivered to or otherwise served on any person, may be delivered by the surveyors of the districts in which such notices are required to the respective assessors for the purpose of serving or affixing the same: Service of notices.

(c) The delivery of such last-mentioned notices by a surveyor shall be as effectual as if the same had been delivered by the General Commissioners of the division or by the Land Tax Commissioners:

(d) Every assessor or collector is hereby required to observe such directions as may from time to time be given to him by the surveyor in all matters touching the time and manner of fixing or delivering or otherwise serving such last-mentioned notices, and the persons on whom the same

are to be served, such directions having been previously seen and allowed by the said respective Commissioners:

(e) All notices or forms required or allowed to be served on any person may be either delivered to such person or left at the usual or last known place of abode of such person:

(f) A notice to a person to be given by a surveyor may be served and sent by post by a prepaid registered letter, and in proving such service or sending it shall be sufficient to prove that the letter containing the order, notice, or document was properly addressed, registered, prepaid, and posted:

(g) A notice to be given by the Board may, by their order, be signed by one of their secretaries or assistant secretaries, and any such notice purporting to be so signed by order of the Board shall be as valid and effectual as if signed under the hands of the Board:

(h) All notices to be given or delivered to or served on the Land Tax Commissioners, the General Commissioners, or the Additional Commissioners may be given or delivered to or served on their clerk, and such delivery to or service on their clerk shall be a good, valid, and effectual delivery to or service on the said respective Commissioners to all intents and purposes.

10. Actions against Commissioners and Officers.

43 & 44 Vict. c. 19, s. 19. Liability to penalties.

19. No Commissioner, sheriff, sheriff depute or substitute, clerk, surveyor, assessor, or collector who shall act or be employed in the execution of this Act, the Tax Acts, or Land Tax Acts shall be liable for or by reason of such execution to any penalty other than such as by this Act or the said Acts may be inflicted.

43 & 44 Vict. c. 19, s. 20. Actions against collectors.

20.—(7.) Every such action or suit which shall be brought against any collector shall be defended by the respective Land Tax Commissioners or General Commissioners for the division or parish where such collector shall have been appointed by them or act under their warrant or directions.

Costs to be defrayed by assessment.

(8.) The costs and charges attending the same, as also any other action or suit to be brought by or against the said Commissioners or any collector by them appointed for anything done in pursuance of this Act or the Tax Acts, or Land Tax Acts, shall be defrayed by an assessment made in a just proportion on the several persons, lands, tenements, and hereditaments liable to be assessed in the

parish in or relating to which the alleged cause of action shall have arisen, or for which such collector shall have been appointed.

The earlier part of this section is repealed by the Public Authorities Protection Act, 1893. Every such action refers to an action for anything done in pursuance of this Act. By the repealing Act, among other restrictions, the action must be commenced within six months. 56 & 57 Vict. c. 61, s. 2.

11. Penalties.

21.—(1.) All such penalties as under this section are recoverable in the High Court shall be sued for by information in the name of the Attorney-General for England, in Scotland in the name of the Lord Advocate, and in Ireland in the name of the Attorney-General for Ireland, and may be recovered with full costs of suit. 43 & 44 Vict. c. 19, s. 21. Penalties, how recoverable.

(3.) All penalties exceeding twenty pounds imposed by virtue of this Act, the Tax Acts, or Land Tax Acts, excepting such as are directed to be added to the assessments, shall be recoverable in the High Court.

(4.) In default of prosecution within the space of twelve months from the time of any penalty being incurred under the provisions of this Act, or of the said Acts, no penalty or forfeiture shall afterwards be recoverable in any other manner (*a*).

(5.) Subject to the above restriction as to time, all pecuniary penalties not exceeding twenty pounds imposed by virtue of this Act, or of the said Acts, and also such of the said penalties exceeding twenty pounds as are directed to be added to the assessment of the land tax or the duties, shall be recoverable before the Land Tax Commissioners and General Commissioners respectively, and in Scotland either before the said Commissioners or before the sheriff depute or substitute for the county, division, or parish where the offence is committed.

(6.) The said respective Commissioners and sheriff depute or substitute shall take cognizance of the offence in respect of which a penalty may be imposed by them upon information in writing made to them, and upon a summons to the party accused to appear before them at such time and place as they shall fix; and they shall examine into the matter of fact, and hear and determine the same in a summary way, and on proof made thereof, either by voluntary confession of the party accused, or by the oath or solemn affirmation of one or more credible witness or witnesses, or otherwise as the case may require, shall give judgment for the penalty, or for such part thereof as the said Commissioners, sheriff depute, or substitute, shall think proper to mitigate the same to, and shall assess the penalty on the party by way of supplementary assessment, which penalty so adjudged shall be levied in like Mode of proceeding before Commissioners. Power to mitigate.

Adjudication final.

manner as the duties; and the said adjudication of the Commissioners, sheriff depute or substitute, shall be final and conclusive to all intents and purposes, without appeal; and the proceedings and decree of the Commissioners, sheriff depute or substitute, shall not be removeable by any process whatever into any Court of law or equity.

All penalties to be paid into Revenue.

(7.) All the moneys arising from fines, penalties, issues, and forfeitures, or shares thereof, recovered, levied or received under this Act, the Tax Acts, or the Land Tax Acts, shall be paid, by the person receiving or recovering the same, to the collector of inland revenue without delay, or within ten days after he receives from the Board an order for the payment thereof to such collector.

(*a*) *I.e.*, than before the High Court.

1898, *Lord Advocate* v. *Sawers*, 25 Sc. Ses. Cas. 4th Series 242; 35 S. L. R. 190.

"The scheme of sub-sects. (3), (4), and (5) of sect. 21 is the following: (3) and (4) define the jurisdiction of the High Court as including under (3) suits for penalties exceeding £20, and under (4) belated suits for penalties of all amounts. Then (5) defines the jurisdiction of the other Courts as applying to suits instituted within twelve months for penalties not exceeding £20." Lord President in *Lord Advocate* v. *Sawers*.

53 & 54 Vict. c. 21, s. 22. Proceedings in the High Court.

The Inland Revenue Regulation Act, 1890—

22.—(1.) Any fine or penalty incurred under any Act relating to Inland Revenue may be sued for and recovered, and any goods seized as forfeited under any such Act may be returned for condemnation and condemned in the High Court.

Limitation of time for proceedings.

(2.) The proceedings for the recovery of any such fine or penalty or for the condemnation of any such goods shall be commenced within two years next after the fine or penalty is incurred or the seizure is made.

7 Edw. 7, c. 23 (1). Extension of time for certain proceedings. 31 Eliz. c. 5. 43 & 44 Vict. c. 19. 53 & 54 Vict. c. 21.

The Finance Act, 1907—

23.—(1.) Notwithstanding anything in an Acte concerninge Informers, being chapter five of the Acts of the thirty-first year of the reign of Queen Elizabeth, or in subsection four of section twenty-one of the Taxes Management Act, 1880, or in subsection (2) of section twenty-two of the Inland Revenue Regulation Act, 1890, or in any other enactment, proceedings for the recovery of any fine or penalty incurred under the Income Tax Acts may be commenced within three years next after the fine or penalty is incurred.

12. Execution of Warrants.

43 & 44 Vict. c. 19, s. 22. Constables and peace

The Taxes Management Act, 1880—

22. All constables and other peace officers are hereby required to aid in the execution of this Act, and to obey and execute such

precepts and warrants as shall be to them directed in that behalf by the respective Commissioners under the authority of this Act.

officers to assist.

Obstruction.

23. If any person wilfully obstructs a surveyor, assessor, or collector in the execution of his office or duties, he shall for every such offence incur a penalty of fifty pounds.

43 & 44 Vict. c. 19, s. 23. Persons obstructing officers to forfeit 50*l.*

13. Perjury and Forgery.

The Income Tax Act, 1842—

5 & 6 Vict. c. 35, s. 180. Persons giving false evidence, or swearing falsely, liable to the penalties of perjury.

180. If any person, upon any examination on oath or affirmation, or in any affidavit, deposition, or affirmation, authorised by this Act, shall wilfully and corruptly give false evidence, or shall wilfully and corruptly swear or affirm any matter or thing which shall be false or untrue, every such person so offending, and being thereof duly convicted, shall be subject and liable to such pains and penalties as by the laws in force persons convicted of wilful and corrupt perjury are subject and liable to; and any indictment or information for perjury committed in any such affidavit, deposition, or affirmation as aforesaid, whether the same shall be taken or made within the United Kingdom or without, shall and may be laid, tried and determined in the county where such affidavit, deposition, or affirmation shall be exhibited to the Commissioners in pursuance of this Act.

Indictments may be tried in the county where the affidavit was exhibited.

5 & 6 Vict. c. 35, s. 181. Punishment of persons guilty of forging or altering certificates or receipts given under this Act.

181. If any person shall forge, counterfeit, or alter, or cause or procure to be forged, counterfeited, or altered, or knowingly or wilfully act or assist in forging, counterfeiting, or altering, any certificate of the Commissioners of Inland Revenue, or of any other Commissioners acting in the execution of this Act, or any certificate or receipt which the cashier of the Bank of England, or the Receiver-General of Inland Revenue, or any officer for receipt, is by this Act authorised to give on the receipt of any money payable under this Act, or shall utter any such forged, counterfeited, or altered certificate or receipt, as aforesaid, with intent to defraud her Majesty, or any body politic or corporate, or any person whomsoever, every person so offending, and being thereof lawfully convicted, shall be adjudged guilty of felony, and shall be transported for a term not exceeding fourteen years.

5 & 6 Vict. c. 35, s. 182. Prescribing the evidence

182. If upon the trial of any indictment, information, suit or prosecution whatsoever, or in any proceeding relative thereto, under and by virtue of this Act or the said Acts herein-before

to be received in Court of person being Commissioners or officers.

recited or referred to, or for anything done in pursuance of this Act, or for any offence committed against this Act, or in any matter arising out of this Act, or on occasion thereof, any question shall arise whether any person be or have been or was a Commissioner or officer of or for the said duties hereby granted, or commissioned or appointed to act as such, then and in every such case proof may be made and admitted that such person was reputed to be or had acted as such Commissioner or officer, or acted under such commission or appointment, at the time respectively when the act, matter, or thing in controversy upon such trial or other proceeding shall happen to have been done or committed, or omitted to have been done or performed, without producing or proving the particular commission, appointment, nomination, or other authority whereby such Commissioner or officer was constituted and appointed; and that in every such case such proof shall be deemed and taken, by all judges, justices, or Commissioners before whom any such trial or proceeding shall be had, to be good and legal evidence, unless by other evidence the contrary shall be made to appear; any law or usage to the contrary thereof notwithstanding.

14. Proceedings against Collectors.

43 & 44 Vict. c. 19, s. 115.

The Taxes Management Act, 1880—

Part VIII.

Failure to raise Duties (England).

Surveyors may report any failure to raise duties.

115.—(1.) Every surveyor in England, whenever he sees occasion, may report to the Land Tax Commissioners and General Commissioners—

(a) In any matter or thing touching the conduct of any collector within their division;

(b) In every case where there shall be a failure of assessing or charging the duties in any parish; or

(c) Of raising or paying the several sums respectively charged on any person chargeable in such parish; or

(d) In the making out or returning any duplicates or assessments by their clerk, or of doing any other act required by this Act or any Tax Act to be done by such clerk;

stating in his report—

(i.) The particulars of his complaint against such collector or other person acting as aforesaid; and

(ii.) What in his opinion ought to be done therein.

(2.) Whenever any surveyor shall have reported to the said Commissioners as aforesaid, they shall summon a meeting within a

reasonable time after such report, of which meeting the surveyor shall have notice, and shall attend thereat, and assist in the consideration of the measures necessary and expedient to be taken in the execution of the said Acts and this Act.

Examination of Collectors (England).

43 & 44 Vict. c. 19, s. 116. Commissioners to call collectors before them.

116.—(1.) In England the Land Tax Commissioners and General Commissioners may, whenever they think expedient, and shall whenever required by the surveyor, call before them the collector of the duties or land tax appointed by them for any parish or group whose accounts for any year are not finally closed, and examine him upon oath or affirmation as to the state of his accounts and collection, and make such order for the payment of the sum found due by such collector, and appoint a time for such payment to the collector of inland revenue as they shall judge necessary.

(2.) The said Commissioners, whenever they shall have received notice of the holding of a receipt for any division, group, or parish, may, and on request made by the surveyor shall, call before them any collector appointed by them for such division, group, or parish, and may, after examination of such collector in manner aforesaid, give such collector a certificate and order of the sum to be paid by him to the collector of inland revenue, which certificate shall be presented and delivered up to the collector of inland revenue by the collector on his attending to make such payment of the moneys by him collected and received.

Revocation of Appointments.

43 & 44 Vict. c. 19, s. 117. Collectors neglecting their duty may be dismissed, and others appointed.

117.—(1.) If delay or failure happens in demanding, receiving, recovering, or paying over the land tax or the duties or moneys through the wilful neglect of a collector, whether appointed by the Land Tax Commissioners and General Commissioners or by the Board, such Commissioners or Board may respectively revoke their appointment of such collector, and appoint a collector in his stead for the remainder of the year, with full power to collect the arrears of the sums then due.

(2.) The said respective Commissioners or Board, whenever necessary, may revoke such last-mentioned appointment, and appoint a collector in like manner from time to time and as often as any such collector shall be guilty of such neglect, provided security be taken, if required, as in the case of an original appointment, and provided the like security be taken on every such new appointment as has been required to be taken on the appointment of the collector: and

(3.) Such collector so in default shall, when required by the said Commissioners or Board, deliver up to them or in their presence to the collector newly appointed, or to the surveyor, all the certificates of assessments which he was charged to collect, and all books, receipts, and counterfoils, and vouchers of payment, and also shall pay to the collector of inland revenue all sums then in his hands at such time as such Commissioners or Board shall appoint.

Seizure of Estates.

43 & 44 Vict. c. 19, s. 118. Commissioners empowered to seize, sell, and convey estates of defaulting collectors.

118.—(1.) If a collector fails to pay any land tax or duties or moneys by him received as collector, and detains in his hands, and does not pay or account for the same in manner directed by this Act, the Land Tax Commissioners and General Commissioners, in their respective divisions, may imprison the person, and seize and secure the estate, as well freehold as copyhold, and all other estate, both real and personal, of such collector to him belonging or which shall have descended or come into the hands or possession of his heirs, executors, administrators, or assigns, wheresoever the same can be discovered and found.

(2.) The said Commissioners shall appoint a time for a meeting of the said Commissioners for such division, and cause public notice to be given of the place where such meeting shall be appointed ten days at least before such meeting.

(3.) The said Commissioners of such division present at such meeting, or the major part of them, in case the accounts of such collector be not duly delivered, or the moneys detained by any such collector be not paid or satisfied, according to the directions of this Act, shall sell and dispose of all such estates which shall be for the cause aforesaid seized and secured, or any part of them, to satisfy and pay over to the proper collector of inland revenue the sum that shall not be so accounted for or shall be so detained in the hands of such collector, his heirs, executors, or administrators respectively, together with the reasonable costs and charges of recovering, raising, and paying the same, which costs and charges shall be ascertained and settled by the Commissioners, and the overplus (if any) shall be restored to the collector or the person entitled thereto.

(4.) The said Commissioners acting for the division in which the estate and effects of such collector shall be seized and secured as aforesaid shall make conveyance of all such freehold and copyhold estates respectively, and in like manner assign the leasehold and other personal estate of such collector, and all his right, title, and interest therein at the time of such seizure or at the time of

the death of any collector so dying in default as aforesaid to the respective purchasers thereof respectively, by deed indented between any two or more of the said Commissioners.

(5.) Such sales and purchases respectively shall be as effectual and valid to all intents and purposes against such collector, his heirs, executors, and administrators, and all persons claiming under such collector, in like manner as the sale of bankrupts' estates of the like nature under and by virtue of the statute relating to bankrupts, or any of them, may be made by deed indented or enrolled or by deed of assignment according to the several natures of such last-mentioned estates: Provided always, that such person or persons to whom any such sale of copyhold lands shall be made shall in like manner as the purchaser of the copyhold estates of bankrupts, before such time as he or they, or any of them, shall enter or take any profit of the said lands or tenements, agree and compound with the lords of the manors of whom the same shall be holden for such fines or incomes as heretofore hath been most usual and accustomed to be yielded or paid therefor; and that upon every such agreement or composition the said lords for the time being, at the next Court to be holden at or for the said manors, shall not only grant to the said vendee or vendees, upon request, the same copyhold or customary lands or tenements by copy of court roll of the same manors for such estate or interest as to them shall be so sold, and reserving the ancient rents, customs, and services, but also in the same court admit them tenants of the same copyhold or customary lands as other copyholders of the same manors have been wont to be admitted, and to receive their fealty, suit or service according to the custom of the court of such manor.

Actions on Collectors' Bonds.

43 & 44 Vict. c. 19, s. 119. Evidence of default.

119.—(1.) On the trial of an action or suit against the sureties of a collector on a bond entered into, in pursuance of this Act, or on the execution of a writ of inquiry of damages in such action or suit, the production of an account in the handwriting of such collector or signed by him of any sum of money collected or received by him for or on account of the land tax or duties or moneys, or any of them, shall be sufficient proof of the receipt by such collector of every such sum of money therein mentioned on account of the duties given to him in charge for collection; and

(2.) A schedule delivered upon oath or affirmation by such collector in pursuance of this Act or the Tax Acts or Land Tax Acts, and containing or purporting to contain the names of persons who

have made default in payment of the land tax or the duties and of the sums remaining in arrear, shall in any action or suit as aforesaid and upon all other occasions, be sufficient evidence to charge such collector and his sureties respectively with all other sums of money comprised in the duplicate or duplicates given to him in charge to collect, and not included in such schedule, or previously accounted for and paid over to the proper officer for receipt; and all such sums not so included in such schedule, or previously accounted for and paid over, shall be deemed to have been collected and received by such collector and to remain in his hands unpaid and in arrear.

43 & 44 Vict. c. 19, s. 120. Costs.

120. If in any such action by the Land Tax Commissioners and General Commissioners, they, without their own wilful neglect or default, fail to recover a verdict against the defendant, and costs are awarded to the defendant, or where any action is brought against the said Commissioners in relation to any such bond, and they are adjudged to pay costs to the plaintiff, they shall not be personally liable for such costs, but the same shall be defrayed by an assessment upon the inhabitants of the parish in relation to which the bond which shall have been the subject of the action was given, and which assessment the said Commissioners shall make, sign, and allow as soon as conveniently may be done after such costs shall have been awarded and ascertained; and the said Commissioners shall cause such assessment to be made, collected, levied, and recovered in the same manner as assessments of the land tax and the duties are made, collected, levied, and recovered, and shall cause the costs to be paid over to the person entitled thereto.

Penalties on Collectors.

43 & 44 Vict. c. 19, s. 121. Penalties for neglect.

121.—(1.) Every collector who—

(a) Refuses, neglects, or omits upon receiving any of the duties, land tax, or moneys, to give a receipt for the same on the prescribed form, or to fill up and keep remaining in the prescribed receipt book the counterfoil of the receipt; or

(b) Gives a receipt for any of the duties, land tax, or moneys otherwise than upon the form prescribed and provided by the Board;

shall for every such offence incur a penalty of ten pounds.

(2.) Every collector who refuses or neglects to deliver on oath or affirmation to the collector of inland revenue at the appointed day of receipt, or to the Land Tax Commissioners and General Commissioners of the division respectively within three days afterwards,

a schedule of arrears as by this Act required and prepared in the manner prescribed, shall for every such offence incur a penalty of twenty pounds.

(3.) Every collector who—

(i.) Refuses or neglects to bring with him to an appointed receipt and to produce to the collector of inland revenue and surveyor, when by either of them required, his duplicates of assessment, showing the sums collected and received by him, or, instead thereof, certificates signed by the Land Tax Commissioners and General Commissioners, together with an account in writing, signed by him, of all sums of money collected and received for the year of assessment:

(ii.) Refuses to take the prescribed oath or affirmation to any schedule of arrears delivered by him at a receipt, or to answer any lawful question demanded of him by the collector of inland revenue or surveyor touching the duties, land tax, or moneys, or to sign his answer when reduced into writing; or

(iii.) Declares in any answer by him made any matter or thing which shall be false;

(iv.) Advances or lends to any person any or any part of the duties, land tax, or moneys by him collected and received;

(v.) Applies any or any part of the duties, land tax, or moneys to his own use or purpose;

(vi.) Deposits or delivers over any or any part of the duties, land tax, or moneys to any person, so that the full sums, or any part thereof to be raised under the Tax Acts, Land Tax Acts, or this Act, according to the tenour and effect thereof, shall be withheld and not paid over to the collector of inland revenue or to his credit at the times on which the same ought to be paid;

(vii.) Refuses or neglects upon clearing his account for any of the duties, land tax, or moneys to deliver to the Land Tax Commissioners and General Commissioners by whom he was appointed, or to the Board, the duplicate of the assessment for the year and tax or duty to which such account relates, together with all the books of receipts and counterfoils furnished for his use in the collection of such taxes and duties;

(viii.) Refuses or neglects when summoned by notice or called before them to attend the Land Tax Commissioners and General Commissioners of the division, and then answer any lawful questions demanded of him by such Commis-

sioners touching the execution of his office as collector to which he was by them appointed ;

(ix.) Refuses or neglects to produce to the Land Tax Commissioners and General Commissioners of the division all and any certificates of assessments, accounts, books, and counterfoils of receipts, or vouchers of payments of the land tax or duties, or moneys given or entrusted to him as collector ;

(x.) Refuses or neglects on the revocation of his appointment to attend, if summoned for the purpose, and deliver up to the Land Tax Commissioners and General Commissioners or to the surveyor, or on demand of and by the collector appointed in his stead, to deliver up to such collector all and any certificates of assessments, accounts, books and counterfoils of receipts, and vouchers of payments of the duties and land tax given, delivered, or entrusted to him and in his possession as collector at the time of the revocation of his appointment,

shall for every such offence incur a penalty of fifty pounds, with all costs and charges, which penalty, with all costs and charges, shall be added to the assessments to which it particularly relates, and shall be levied in like manner as the duties.

(4.) Every collector who refuses or neglects to pay over when and at the date ordered by the said Commissioners any sum of or on account of the duties, land tax, or moneys collected and received and not accounted for by him at the appointed receipt, shall for every such offence incur a penalty of fifty pounds, with all costs and charges, and a further penalty at the rate of five pounds per centum per annum for the whole sum by him detained, which penalties, with all costs and charges, shall be added to the assessments to which they particularly relate, and shall be levied in like manner as the duties.

(5.) Every collector who—

(a) Collects any of the duties, land tax, or moneys by any rate book or duplicate other than such rate book or duplicate as shall be signed and allowed by the said Commissioners ;

(b) Receives any such duties, land tax, or moneys from any person not charged therewith in such rate book or duplicate ;

(c) Collects from any person more money than is actually charged on such person in such rate book or duplicate ;

(d) Does not pay over the whole duties, land tax, and moneys by him collected ;

(e) Fraudulently alters any such rate book or duplicate after the same has been signed and allowed by the said Commissioners;

(f) Refuses or neglects to make a return upon oath as prescribed of persons from whom the duties cannot be collected,

shall for every such offence incur a penalty of one hundred pounds.

The Revenue Act, 1889—

52 & 53 Vict. c. 42, s. 14. Proceedings against collectors and others in relation to taxes.

14.—(1.) The provisions of the Taxes Management Act, 1880, shall not affect any prosecution on indictment or criminal letters for any felony or misdemeanour, provided that no person shall be proceeded against twice in respect of the same offence.

(2.) A collector of land tax, income tax, or inhabited house duties shall, for the purpose of any indictment or criminal letters for any felony or misdemeanour committed by him as such collector, be deemed to be employed in the public service of her Majesty, and to be a clerk, officer, or servant of the Commissioners of Inland Revenue.

Part III.

THE SCHEDULES.

Grant of the Duties of Income Tax.

7 Edw. 7, c. 13. Income tax for 1907-8.

The Finance Act, 1907—

18.—(1.) Income tax for the year beginning on the sixth day of April, 1907, shall be charged at the rate of one shilling.

59 & 60 Vict. c. 28. Application of Income Tax Acts.

The Finance Act, 1896—

26.—(1.) When this or any other Act enacts that income tax shall be charged in any year at any rate, there shall be charged, levied, and paid during that year in respect of all property, profits, and gains respectively described or comprised in the several Schedules (A.), (B.), (C.), (D.), and (E.) in the Income Tax Act, 1853, the tax at that rate:

for every twenty shillings of the annual value or amount of property, profits, and gains chargeable under Schedules (A.), (C.), (D.), or (E.) in the said Act; and

for every twenty shillings of one-third of the annual value of lands, tenements, hereditaments, and heritages chargeable under Schedule (B.) in the said Act in respect of the occupation thereof.

(2.) The deduction of one-eighth out of the duties chargeable under Schedule (B.) shall cease.

16 & 17 Vict. c. 34, s. 2. Duties payable in respect of subjects described in schedules.

The Income Tax Act, 1853—

2. For the purpose of classifying and distinguishing the several properties, profits, and gains for and in respect of which the said duties are by this Act granted, and for the purposes of the provisions for assessing, raising, levying, and collecting such duties respectively, the said duties shall be deemed to be granted and made payable yearly for and in respect of the several properties, profits, and gains respectively described or comprised in the several Schedules contained in this Act, and marked respectively (A.), (B.), (C.), (D.), and (E.), and to be charged under such respective schedules; (that is to say):

Schedule (A.).

For and in respect of the property in all lands, tenements, hereditaments, and heritages in the United Kingdom, and to be charged for every twenty shillings of the annual value thereof:

SCHEDULE (B.).

For and in respect of the occupation of all such lands, tenements, hereditaments, and heritages as aforesaid, and to be charged for every twenty shillings of the annual value thereof.

SCHEDULE (C.).

For and in respect of all profits arising from interest, annuities, dividends, and shares of annuities payable to any person, body politic or corporate, company or society, whether corporate or not corporate, out of any public revenue, and to be charged for every twenty shillings of the annual amount thereof:

SCHEDULE (D.).

For and in respect of the annual profits or gains arising or accruing to any person residing in the United Kingdom from any kind of property whatever, whether situate in the United Kingdom or elsewhere, and for and in respect of the annual profits or gains arising or accruing to any person residing in the United Kingdom from any profession, trade, employment, or vocation, whether the same shall be respectively carried on in the United Kingdom or elsewhere, and to be charged for every twenty shillings of the annual amount of such profits and gains.

And for and in respect of the annual profits or gains arising or accruing to any person whatever, whether a subject of her Majesty or not, although not resident within the United Kingdom, from any property whatever in the United Kingdom, or any profession, trade, employment, or vocation exercised within the United Kingdom, and to be charged for every twenty shillings of the annual amount of such profits and gains:

And for and in respect of all interest of money, annuities, and other annual profits and gains not charged by virtue of any of the other schedules contained in this Act, and to be charged for every twenty shillings of the annual amount thereof;

SCHEDULE (E.).

For and in respect of every public office or employment of profit, and upon every annuity, pension, or stipend payable by her Majesty or out of the public revenue of the United Kingdom, except annuities charged to the duties under the said Schedule (C.), and to be charged for every twenty shillings of the annual amount thereof.

The Finance Act, 1907—

18.—(2.) All such enactments relating to income tax as were in force on the fifth day of April, nineteen hundred and seven, shall, subject to any amendments made by this Act, have full force and effect with respect to the duty of income tax hereby granted. 7 Edw. 7, c. 13, s. 18.

16 & 17 Vict. c. 34, s. 3. Duties on fractional parts.

The Income Tax Act, 1853—

3. Upon every fractional part of twenty shillings of the annual value or amount of the property, profits, and gains aforesaid, the like proportion of duty at the respective rates aforesaid shall be charged; provided that no duty shall be charged of a lower denomination than one penny.

16 & 17 Vict. c. 34, s. 4. Duties to be under the management of the Commissioners of Inland Revenue.

4. The duties by this Act granted shall be under the direction and management of the Commissioners of Inland Revenue for the time being, who are hereby empowered to employ all such officers or other persons, and to do all such other acts and things as may be deemed necessary or expedient for the raising, collecting, receiving, and accounting for the said duties, and for putting this Act into execution in and throughout the United Kingdom, in the like and in as full and ample a manner as they are authorised to do with relation to any other duties under their care and management.

As to the raising, collecting, receiving, and accounting for the duties, see Procedure, and various heads thereunder.

16 & 17 Vict. c. 34, s. 5. Duties to be assessed and raised under the provisions of recited Acts.

5. The said duties hereby granted shall be assessed, raised, levied, and collected under the regulations and provisions of the Act passed in the session of Parliament held in the fifth and sixth years of her Majesty, chapter thirty-five, and of the several Acts therein mentioned or referred to, and also of any Act or Acts subsequently passed, explaining, altering, amending, or continuing the said first-mentioned Act; and for this purpose all the said several Acts shall be revived, and shall be deemed to have been and to be continued in force from the fifth day of April, one thousand eight hundred and fifty-three; and all such of the said regulations and provisions as have been enacted by the said Acts, or any of them, with reference to Great Britain or England, shall (so far as the same are or may be applicable consistently with the express provisions of this Act) be and the same are hereby extended to Ireland; and all powers, authorities, rules, regulations, directions, penalties, clauses, matters, and things contained in or enacted by the said several Acts before recited or referred to, or any of them, shall, notwithstanding that the same may have expired, severally and respectively be and become in full force and effect with respect to the duties hereby granted, and shall in all cases not expressly provided for by this Act, and so far as the same are not superseded by and are consistent with the express provisions of this Act, severally and respectively be duly observed, applied, practised, and put in execution throughout the respective parts of the United Kingdom, for raising, levying, collecting, receiving, accounting for, and securing the said duties hereby granted, and for auditing the accounts thereof, and otherwise relating thereto, as fully and

effectually to all intents and purposes as if the same powers, authorities, rules, regulations, directions, penalties, clauses, matters, and things were particularly repeated and re-enacted in the body of this Act with reference to the said duties hereby granted, and respectively applied to the several parts of the United Kingdom as aforesaid; and wherever in the said Acts, or any of them, the term "England" is used or mentioned, the same, in relation to the duties granted by this Act, shall be deemed to extend to and to mean also Ireland; and in like manner the term "Great Britain" shall be read as and deemed and construed to mean the United Kingdom; and where in the provisions of the said Acts her Majesty's Court of Exchequer at Westminster, or any of her Majesty's Courts of Record at Westminster, is or are mentioned or referred to, such provisions shall, with reference to the duties under this Act to be assessed in Ireland be construed and take effect as if her Majesty's Court of Exchequer at Dublin, or her Majesty's Superior Courts of Record at Dublin, were mentioned or referred to instead of the said respective Courts at Westminster, and the said Act of the fifth and sixth years of her Majesty, chapter thirty five, and the Acts explaining, altering, amending, and continuing the same, and this Act, shall be construed and read together as one Act.

The Customs and Inland Revenue Act, 1890—

53 & 54 Vict. c. 8, s. 30.

Provisions of income tax to apply to duties to be granted for succeeding year.

30. In order to ensure the collection in due time of any duties of income tax which may be granted for any year commencing on the sixth day of April, all such provisions contained in any Act relating to income tax as were in force on the preceding day shall have full force and effect with respect to the duties of income tax which may be so granted in the same manner as if the said duties had been actually granted by Act of Parliament, and the said provisions had been applied thereto by the Act.

The Income Tax Act, 1853—

16 & 17 Vict. c. 34, s. 2.

SCHEDULE (A.)

Schedule (A.).

For and in respect of the property in all lands, tenements, hereditaments, and heritages in the United Kingdom, and to be charged for every twenty shillings of the annual value thereof.

Heritage.

"Heritage" is a technical Scotch word: Fry, L.J., in 1888, *R.* v. *Commissioners of Income Tax*, 22 Q. B. Div. 296.

The Income Tax Act, 1842—

5 & 6 Vict. c. 35, s. 60.

Duties in Schedule (A.) to be charged under the following rules.

60. The duties hereby granted and contained in the said schedule marked (A.) shall be assessed and charged under the following rules, which rules shall be deemed and construed to be a part of

this Act, and to refer to the said duties, as if the same had been inserted under a special enactment.

We shall now give the rules for assessing and charging the duties under Schedule (A.), and at the same time we shall discuss the subject-matter of the Schedule. It will be observed that the duties are charged on the annual value. The rules will explain how the annual value is to be determined. In determining the annual value for any particular year, the Income Tax Act for that year sometimes allows us to use the annual value arrived at for the preceding year, *e.g.*,

7 Edw. 7, c. 13, s. 18.

The Finance Act, 1907—

18.—(3.) The annual value of any property, which has been adopted for the purpose either of income tax under Schedules A. and B. in the Income Tax Act, 1853, or of inhabited house duty, during the year ending on the fifth day of April nineteen hundred and seven, shall be taken as the annual value of such property for the same purpose during the next subsequent year; provided that this subsection—

16 & 17 Vict. c. 34.

32 & 33 Vict. c. 67.

(b) shall not apply to the Metropolis as defined by the Valuation (Metropolis) Act, 1869.

59 & 60 Vict. c. 28, s. 30.

The Finance Act, 1896—

Inspectors or surveyors of taxes to be assessors for income tax under Schedules A. and B. in certain cases.

30. Where this or any other Act enacts that the annual value of any property which has been adopted for the purpose of income tax under Schedules A. and B. in the Income Tax Act, 1853, or of inhabited house duty, during any year shall be taken as the annual value of such property for the same purposes during any subsequent year, the inspectors and surveyors of taxes shall be the assessors for such subsequent year of the income tax under the said Schedules A. and B., and of the inhabited house duty.

Scheme of rules.

Scheme of Rules I., II., and III.

No. I. No. I. *For Lands, Tenements, and Hereditaments capable of actual occupation, except those in Nos. II. and III.*

No. II. II. *For Tithes, Manors, Royalties, Fines, and Profits arising from Lands, Tenements, and Hereditaments not in actual occupation.*

No. III. III. *For Quarries, Mines, Ironworks, Gasworks, Waterworks, Canals, Railways, &c.*

Schedule (A.)—No. I.

5 & 6 Vict. c. 35, s. 60. No. I.

The Income Tax Act, 1842—

No. I.—General Rule for estimating Lands, Tenements, Hereditaments, or Heritages mentioned in Schedule (A.).

Annual value to be ascertained by this rule, except as after stated.

The annual value of lands, tenements, hereditaments, or heritages charged under Schedule (A.) shall be understood to be the rent by the year at which the same are let at rackrent, if the

amount of such rent shall have been fixed by agreement commencing with the period of seven years preceding the fifth day of April next before the time of making the assessment, but if the same are not so let at rackrent, then at the rackrent at which the same are worth to be let by the year; which rule shall be construed to extend to all lands, tenements, and hereditaments, or heritages, capable of actual occupation, of whatever nature, and for whatever purpose occupied or enjoyed, and of whatever value, except the properties mentioned in No. II. and No. III. of this Schedule.

The assessment is reduced by one-eighth part in the case of lands inclusive of the farm house and other buildings, and in the case of houses and buildings other than a farm house or building included with lands in assessment, the assessment is reduced by one-sixth where the landlord does the repairs, and where the tenant does the repairs by such a sum not exceeding one-sixth of the rent as may be necessary to reduce the assessment to the rent. See the Finance Act, 1894, sect. 35, *post*, p. 153. The object of this enactment is to give an allowance for repairs. The case of 1907, *Inland Revenue* v. *Edinburgh Magistrates*, 44 Sc. L. R. 873, in which it was held that a slaughter-house owned by the Corporation under a private Act, which was to be self-supporting but not profit-earning, was assessable under Rule I.

Hereditament.

1907. *Ystradyfodwg and Pontypridd Main Sewerage Board* v. *Benstod (Surveyor of Taxes)*, 1 K. B. 490; affd., [1907] A. C. 264.

A sewer, vested in and under control of a local authority, is a hereditament capable of actual occupation, and is chargeable under schedule (A.), Rule 1. In determining the annual value the Commissioners may take the poor rate assessment into consideration, and are not bound to ascertain it by reference to the rent at which the adjoining agricultural land is let.

"Rent by the Year,"—what is.

1858. *Edmonds* v. *Eastwood*, 2 H. & N. 811; 6 W. R. 331; 27 L. J. Ex. 209.

Lease of a brickfield for a term of fourteen years, paying to the lessor the yearly rent of 17*l.* 10*s.* for surface rent, also paying to the lessor for royalty or brick-rent, the yearly sum of 100*l.*, and also paying in respect of every thousand bricks over and above the first million, which should be made on the premises in any one year, an additional royalty or brick-rent of 2*s.*:—

Held, that both royalties or brick-rents were chargeable with income tax, and that it was payable in the first instance by the lessee, who was entitled to deduct it from the amount due to the lessor, that the royalty or brick-rent of 100*l.* was rent by the year within No. I., and that the result was the same whether the royalty or brick-rent of 2*s.* per thousand was rent by the year within No. I., or came under No. III., Clause 3, the Court inclining to the former view.

1856. *Taylor* v. *Evans*, 1 H. & N. 101; 25 L. J. Ex. 269.

By indenture the plaintiff, in consideration of 1,380*l.*, to be paid by instalments, sold the defendant a coal mine for a term of fifty years. The defendant covenanted to pay the plaintiff 150*l.* on the execution of the indenture, and 150*l.* per year after that time; but if a certain amount of coal should be worked in any year the defendant was to pay a larger sum in proportion to the coal worked, until the whole sum of 1,380*l.* should be paid. No coal was worked by the defendant, who claimed to deduct income tax from an instalment:—

Held, that the deduction could not be made as the instalment was not "rent" within sect. 60 of the Income Tax Act, 1842.

1879. *Campbell* v. *Inland Revenue*, 7 R. 82; 17 Sc. L. R. 23; 1 Tax Cas. 234.

In a lease of an hotel the landlord agreed to deliver to the tenant as his property certain coaches, horses, &c., and the tenant agreed to pay a rent of 1,000*l.* yearly for the said hotel and stables, the lease being for nine years:—

Held, that on the face of the lease what was called rent was only partly rent and partly an annual payment in consideration of property conveyed to the tenant, that the Commissioners must inquire how much of the 1,000*l.* a year was, according to a fair valuation, payable in respect of heritable and assessable subjects, and how much for the other things the tenant obtained under his agreement.

"Rackrent."

Rackrent is a rent of the full annual value of the tenement, or near it. 2 Blac. Com. 42.

1899. *Stocks* v. *Inland Revenue*, 1 F. 1020; 36 Sc. L. R. 902.

The occupier of premises which had been assessed to income tax for the year ending April 5th, 1899, at the annual value of 40*l.*, appealed against the assessment and produced two leases; one dated May 2nd, 1898, for seven years from Whit Sunday, 1898, and the other dated in July, 1888, for ten years from Whit Sunday, 1888. The rent in each case was 19*l.* 10*s.*; and the appellant maintained that the assessment should be reduced to that amount.

The Commissioners dismissed the appeal, being of opinion (1) that they were not bound to accept the leases as conclusive evidence of the value of the premises; and (2) that, from their own local knowledge, and according to the best of their judgment, 40*l.* was a fair valuation:—

Held, that the Commissioners were not bound or entitled to regard the leases as conclusive evidence of the value of the premises, although they were admissible as evidence *quantum valerent*, and that the Commissioners were entitled, in considering the evidence, to have regard to their own local knowledge.

1901. *Walker* v. *Brisley*, 44th Report of the Commissioners of Inland Revenue, 140.

A public house outside the metropolis was rated at a gross value of 300*l.* It was assessed for income tax at 400*l.* The Commissioners confirmed the assessment, being satisfied, after hearing the evidence of value adduced, that the annual value of 400*l.* represented the rackrent at which the premises were worth to be let by the year:—

Held, that the Commissioners were not bound by the assessment appearing in the poor rate book.

Scotland.

In certain circumstances the Commissioners of Inland Revenue are bound by the valuation-roll under the Lands Valuation Act, 1854, and Amendment Act, 1857, 17 & 18 Vict. c. 91, and 20 & 21 Vict. c. 58.

1878. *Menzies* v. *Solicitor of Inland Revenue*, 5 R. 531; 15 Sc. L. R. 285; 1 Tax Cas. 148.

The provisions in the Lands Valuation (Scotland) Act, 1854, are applicable to purposes of local taxation only, and have not repealed or altered the rule laid down in the Income Tax Act, 1842.

But in counties and burghs where by the Valuation of Lands (Scotland) Act Amendment Act, 1857, the officer of inland revenue has been appointed assessor for the valuation-roll, the Commissioners of Inland Revenue are bound by the valuation-roll in making their assessments. And see 1907, *Inland Revenue* v. *Edinburgh Magistrates*, 44 Sc. L. R. 873.

SCHEDULE (A.), No. II.

The Income Tax Act, 1842— 5 & 6 Vict. c. 35, s. 60. No. II.

No. II.—Rules for estimating the Lands, Tenements, Hereditaments, or Heritages, herein mentioned which are not to be charged according to the preceding General Rule.

The annual value of all the properties hereinafter described shall be understood to be the full amount for one year, or the average amount for one year, of the profits received therefrom within the respective times herein limited:— Manner of charging certain properties, &c.

First.—Of all tithes, if taken in kind, on an average of the three preceding years: Tithes in kind.

Second.—Of all dues and money payments in right of the church or by endowment, or in lieu of tithes (not being tithes arising from lands), and of all teinds in Scotland, on the like average: Ecclesiastical dues.

Third.—Of all tithes arising from lands, if compounded for, and of all rents and other money payments in lieu of tithes arising from lands (except rent-charges confirmed under the Act passed for the commutation of tithes), on the amount of such composition, rent, or payment for one year preceding: Tithes compounded.

The said duty in each case to be charged on the person entitled to such tithes or payments, or his lessee or tenant, agent or factor, except in the cases mentioned in the fourth rule of No. IV. of Schedule (A.):

Fourth.—Of manors and other royalties, including all dues and other services, or other casual profits (not being rents or other annual payments reserved or charged), on an average of the seven preceding years, to be charged on the lord of such manor or royalty, or person renting the same: Manors.

Fifth.—Of all fines received in consideration of any demise of lands or tenements (not being parcel of a manor or royalty demisable by the custom thereof) on the amount so received within the year preceding by or on account of the party; provided that in case the party chargeable shall prove, to the satisfaction of the Commissioners for General Purposes in the district, that such fines or any part thereof, have been applied as productive capital, on which a profit has arisen or will arise otherwise chargeable under this Act, for the year in which the assessment shall be made, it shall be lawful for the said Commissioners to discharge the amount so applied from the profits liable to assessment under this rule: Fines.

Sixth.—Of all other profits arising from lands, tenements, hereditaments, or heritages not in the actual possession or occupa- Other profits from lands.

tion of the party to be charged, and not before enumerated, on a fair and just average of such number of years as the said Commissioners shall, on the statement of the party to be charged, judge proper (except such profits as may be liable to deduction in pursuance of the ninth or tenth rule in Number IV. hereinafter mentioned), to be charged on the receivers of such profits, or the persons entitled thereto.

"of the Profits received therefrom."

1890, *Duke of Norfolk* v. *Lamarque*, 24 Q. B. D. 490.

"'Profits' does not mean profits in the sense of net profits in a mercantile business, but the average amount for one year of the interest or property that the person has in those rights which are taxed. Then in No. IV. of Rule 2, dealing with manors and other royalties, the words are, 'on an average of the seven preceding years, to be charged on the lord of such manor, or royalty, or person renting the same.' It seems to me to be clear, therefore, that this is to be treated exactly as if it were a rent issuing out of property which belonged to the lord in fee simple": Pollock, B., in *Duke of Norfolk* v. *Lamarque*.

Manors.—Deductions.

1890. *Duke of Norfolk* v. *Lamarque*, L. R. 24 Q. B. D. 485.

No deductions can be made in respect of expenses incurred by the lord of the manor in collecting manorial dues, at any rate where it does not appear that such expenses must necessarily be incurred before the dues can be obtained.

Royalty.

1858. *Edmonds* v. *Eastwood*, 2 H. & N. 811; 27 L. J. Ex. 209; 6 W. R. 331.

Lease of a brickfield. Surface rent 17*l.* 10*s.* Royalty or brick-rent 100*l.* and an additional royalty or brick-rent of 2*s.* per thousand over and above the first million made:—

Held, neither of the royalties are within No. II. Rule 4, but the 100*l.* is rent within No. I. and the 2*s.* per thousand is within No. I. or No. III. Rule 3. "The royalties within No. II. Rule 4, are royalties properly so called": Martin, B.

Fines on renewal of Lease.

Lord Mostyn v. *London*, [1895] 1 Q. B. 170.

A sum of money received for fines which, by the terms of a will, must be applied as capital, if temporarily left on deposit at a bank, is not "applied as productive capital" within the 5th Rule of No. II.

"I doubt whether the proviso in sect. 60, Schedule (A.), No. II. Rule 5 of the Income Tax Act, 1842 (5 & 6 Vict. c. 35), does more than give the Commissioners a discretionary power to discharge the amount applied from profits liable to assessment. The words of the proviso are 'provided that . . . . this rule.' In my opinion, if these words are read fairly, according to the ordinary meaning of the English language, they imply something more than a mere temporary deposit at a bank. The word 'applied' must mean something more than what has been done in the present case, for the fines here cannot be said to have been applied, but are rather held in suspense until it is decided how they are to be applied": Wright, J., *S. C.*

"There must be some element of permanence, and, as Wright, J., has said, it is not enough that the money should be held in suspense until the owner has determined how he will ultimately apply it": Collins, J., *S. C.*

1873, *Att.-Gen.* v. *Scott*, 28 L. T. 302; 21 W. R. 265.

As to "renewing fines" belonging to a corporation, see *Att.-Gen.* v. *Scott*, *post*, p. 250.

SCHEDULE (A.), No. III.

The Income Tax Act, 1842— 5 & 6 Vict. c. 35, s. 60. No. III.

No. III.—Rules for estimating the Lands, Tenements, Hereditaments, or Heritages hereinafter mentioned which are not to be charged according to the preceding General Rule.

Manner of charging certain other properties.

The annual value of all the properties hereinafter described shall be understood to be the full amount for one year, or the average amount for one year, of the profits received therefrom within the respective times herein limited:

Quarries.

First.—Of quarries of stone, slate, limestone or chalk, on the amount of profits in the preceding year:

Second.—Of mines of coal, tin, lead, copper, mundic, iron, and other mines, on an average of the five preceding years subject to the provisions concerning mines contained in this Act:

Ironworks, &c.

Third.—Of ironworks, gasworks, salt springs or works, alum mines or works, waterworks, streams of water, canals, inland navigations, docks, drains and levels, fishings, rights of markets and fairs, tolls, railways and other ways, bridges, ferries, and other concerns of the like nature, from or arising out of any lands, tenements, hereditaments, or heritages, on the profits of the year preceding:

Duty in last three rules how to be charged.

The duty in each of the last three rules to be charged on the person, corporation, company, or society of persons, whether corporate or not corporate, carrying on the concern, or on their respective agents, treasurers, or other officers having the direction or management thereof, or being in receipt of the profits thereof, on the amount of the produce or value thereof, and before paying, rendering, or distributing the produce or the value, either between the different persons or members of the corporation, company, or society engaged in the concern, or to the owner of the soil or property, or to any creditor or other person whatever having a claim on or out of the said profits; and all such persons, corporations, companies, and societies respectively shall allow out of such produce or value a proportionate deduction of the duty so charged, and the said charge shall be made on the said profits exclusively of any lands used or occupied in or about the concern:

Duty on mines to be charged on the company jointly, but any adventurer may claim to be charged

The commutation of duty arising in respect of any such mine carried on by a company of adventurers shall be made and stated jointly in one sum; Provided that if any adventurer shall declare his proportion or share in such concern, in order to a separate assessment, it shall be lawful to charge such adventurer separately, and nothing herein contained shall be

separately, in order to set off his loss in one concern against his profits in another.

construed to restrain any adventurer so separately assessed from deducting or setting against his profits acquired in one or more of such concerns his loss sustained in any other of the said concerns, over and above the profits thereof, provided that such loss shall not exceed the proportion of such adventurer which shall have been duly proved by the company in their computation of duty, and shall have been allowed by the respective Commissioners, and in every such case one assessment only shall be made on the balance of such profit and loss of the adventurer so separating his account in the parish or place where such adventurer shall be chargeable to the greatest amount, and the amount of each person's share so proved and allowed shall be deducted from the general assessment of the company or companies to which such adventurer shall belong, and the respective Commissioners shall cause the assessments on the said companies to be rectified as the case may require; and the certificate of the Commissioners making such separate assessment shall be an authority to the Commissioners acting in another district to cause the assessments on the respective companies to which such assessment shall belong to be rectified; and in case such loss shall arise in a different district than where such separate assessment shall be to be made, the certificate of the Commissioners acting for such other district of the amount of such loss, and the proportion of such adventurer therein, shall be proof of the deduction to be made by the Commissioners making such assessment.

23 & 24 Vict. c. 14, s. 5. Commissioners for Special Purposes to assess railways.

The Income Tax Act, 1860—

5. No assessment shall be made under this Act by the Commissioners for General Purposes in respect of the annual value or profits and gains arising from any railway, but in lieu thereof, every such assessment shall be made by the Commissioners for Special Purposes (*a*), and the said last-mentioned Commissioners shall notify the assessment to the secretary or other officer of the company upon which the same shall be made, and the amount of such assessment shall be paid, collected, and levied in like manner as any other assessment made by the said Commissioners for Special Purposes.

38 & 39 Vict. c. 66.

(*a*) The part omitted is repealed by the Statute Law Revision Act, 1875.

29 & 30 Vict. c. 36, s. 8. Concerns described in No. III. of Schedule (A.) of 5 & 6 Vict.

The Revenue Act, 1866—

8. The several and respective concerns described in No. III. of Schedule (A.) of the said Act passed in the fifth and sixth years of her Majesty's reign, chapter thirty-five, shall be charged and

assessed to the duties hereby granted in the manner in the said No. III. mentioned, according to the rules prescribed by Schedule (D.) of the said Act, so far as such rules are consistent with the said No. III.: Provided that the annual value or profits and gains arising from any railway shall be charged and assessed by the Commissioners for Special Purposes.

c. 35, to be assessed under Schedule (D.) of the said Act; railways to be assessed by Commissioners for Special Purposes.

Distinction between Schedule (A.) No. 1, and Schedule (A.) No. III.

"In the case of land, whether it is occupied by its owner or let, the annual profit or gain in the nature of income arising from the land is, in most cases, fairly and conveniently measured by the rackrent at which the land could be let by the year; but in some cases where the land is used for the purposes of business, and constitutes what may be described as the plant, or sometimes, indeed, the stock-in-trade of the business, the actual thing sold or dealt in, rackrent is not a convenient measure of the profit or gain arising out of the land; and I think it will be found that it is cases of this kind which are described and regulated by Rule No. 3 of Schedule (A.)": Walton, J., in *Ystradyfodwg and Pontypridd Main Sewage Board* v. *Bensted* (*Surveyor of Taxes*).

Ystradyfodwg and Pontypridd Main Sewage Board v. *Bensted* (*Surveyor of Taxes*), [1901] 1 K. B. 490, C. A.

1906. *Pretoria-Pietersburg Railway Co., Ltd.* v. *Elwood*, 95 L. T. 468.

Part of the sum paid for expropriating a railway company under the terms of its concession was a sum of 97,506*l.* 16*s.* 11*d.* as guaranteed interest on its share capital from 1st January, 1899, to 14th November, 1903.

Held, that this sum was assessable to income tax.

Contents.

Difference between the concerns mentioned in Rules I. and II.

Quarry or Mine.

1879. *Jones* v. *Cwmorthen Slate Co.*, L. R. 5 Ex. D. 93; 48 L. J. Q. B. 486.

Slate was obtained from the side of a hill by underground workings carried on through levels. It was held that the works were to be assessed as a quarry under Rule 1 of No. III., and not as a mine under Rule 2 of No. III.

Cotton, L.J., said: "The distinction is not between the modes of working but between the materials raised, and I think it was intended to include even underground workings for slate in the first rule."

Foreign Gasworks.

1877. *The Imperial Continental Gas Association* v. *Nicholson*, 37 L. T. 717; 1 Tax Cas. 138.

Gasworks here does not include foreign gasworks. Foreign gasworks having a place of business in this country are assessable under Schedule (D.).

Tolls.

1871. *Att.-Gen.* v. *Black*, L. R. 6 Ex. 308.

By Act of Parliament the Corporation of Brighton have power to levy a duty on every chaldron of coals landed on the beach or brought into the town. Held, that this was either in the nature of a toll within No. III. or within the sweeping clause in Schedule (D.).

"other concerns of a like nature, from or arising out of any lands."

1889. *Edinboro' Southern Cemetery Co.* v. *Surveyor of Taxes*, 17 R. 154; 27 S. L. R. 71; 2 Tax Cas. 516.

A cemetery company under its contract of co-partnery had power to sell and dispose to any persons of the use of pieces of ground in the cemetery for burial purposes in perpetuity:—

Held, that the company were assessable under Schedule (A.), No. III. Rule 3 being included in the above words.

"At first sight the notion that a cemetery company is a concern of the like nature with any of the others is a little startling, but the essential point of similarity is this, that all of these different concerns are companies which, having purchased or acquired land, remain in the occupation of that land themselves, and are using it for the purpose of some trade or business whereby they acquire profits": Lord Shand.

1898. *Paisley Cemetery Co.* v. *Reith* (*Surveyor of Taxes*), 25 R. 1080; 4 Tax Cas. 1; 35 S. L. R. 947.

A cemetery company received from purchasers of lairs, in lieu of annual payment, a lump sum for keeping the lairs in order, the receipts bearing: "Received . . . being the amount agreed to be accepted by the directors . . . for keeping in order and dressing lair No. in said cemetery, from time to time, during each year in all time coming."

Held, that these sums were taxable.

Income tax is chargeable where money is received and a perpetual obligation undertaken: The Lord President.

Brickfield.

1858. *Edmonds* v. *Eastwood*, 2 H. & N. 811; 27 L. J. N. S. 209; 6 W. R. 331.

Lease of a brickfield for a term of fourteen years, paying to the lessor the yearly rent of 17*l.* 10*s.* for surface rent, also paying to the lessor for royalty or brick-rent the yearly sum of 100*l.*, and also paying in respect of every thousand bricks over and above the first million, which should be made on the premises in any one year, an additional royalty or brick-rent of 2*s.*:—

Held, that the result was the same whether the royalty or brick-rent of 2*s.* per thousand was "rent by the year," within No. I., or came under No. III., Clause 3, but the Court inclined to the former view.

"My opinion is, that the case of a brickfield was not intended to be included within No. III. With the public notoriety that property of that description exists to a great extent, especially in the neighbourhood of London, it seems almost impossible, if it was intended to include it, that it should not have been inserted by name in the same category as coal mines or salt works": Pollock, C.B.

Profits.

It will be observed that the annual value depends on the profits.

To produce profits there must be trading.

1887, *Corporation of Dublin* v. *McAdam*, 20 L. R. Ir. 497; 2 Tax Cas. 337.

"In order to bring this case within the operation of the Income Tax Act, it is necessary that there shall be this trading in its strict true sense. There must be at least two parties—one supplying water, and the other to whom it should be supplied and who should pay for it. If these two parties are identical, in my opinion there can be no trading. No man, in my opinion, can trade with himself; he cannot, in my opinion, make, in what is its true sense or meaning, taxable profit by dealing with himself": Palles, B., in *Corporation of Dublin* v. *McAdam*.

1875. *Glasgow Water Commissioners* v. *Inland Revenue*, 2 R. 708; 12 S. L. R. 466; 1 Tax Cas. 28.

The Glasgow Water Commissioners were empowered by a local Act to borrow money and to acquire certain waterworks and to bring in an additional

supply of water. They were also empowered (1) to levy a compulsory rate on all dwelling houses within the municipal boundaries; (2) to fix a rate for persons who chose to take water beyond the boundaries; and (3) to sell water to manufacturers and others. The Act required the Commissioners to levy a rate sufficient along with the other income to defray the annual interest on debt, annual expenses, and a sum of not less than one per cent. on the money borrowed, to form a sinking fund for the redemption of the debt. The Act directed that any surplus in one year should be applied to reduce the rate within the compulsory area in the following year.

Held, that in the absence of any evidence that the Commissioners were making profit by selling water beyond the compulsory boundaries, the Corporation, being merely the instrument of the ratepayers, could not be said to be trading in any commodity, and that the surplus, after paying expenses, was not assessable as profits under the Income Tax Acts.

But in

1886. *Glasgow Water Commissioners* v. *Miller*, 13 R. 489; 23 S. L. R. 285; 2 Tax Cas. 131,

it was held, that in so far as the Commissioners sell water to manufacturers, or in return for the non-compulsory rate, they are in every sense trading in water, and their surplus revenue thence derived is profit liable to assessment.

1887. *Allan* v. *Hamilton Waterworks Commissioners*, 14 R. 485; 24 S. L. R. 360; 2 Tax Cas. 194.

The Hamilton Waterworks Commissioners, by local Act, were empowered (1) to charge a "domestic water rate" on all premises within the town which were supplied with water; (2) to levy a "public water rate" upon all premises within the town, whether supplied with water or not; and (3) to sell water for other than domestic uses at such rates as should be agreed upon. The barracks, which were within the burgh, did not pay the domestic rate, but paid for water supplied to them according to measurement at the tariff rate. Held (following *Glasgow Water Commissioners* v. *Miller*), that the payment thus derived was profit and liable to assessment. *Diss.* Lord Shand, who held that the barracks were entitled to be supplied at the domestic rate, and that the fact of the other method of supply and payment having been adopted in lieu thereof did not alter the character of the payment so as to make it liable to assessment as profit.

1876. *Glasgow Gas Commissioners* v. *Inland Revenue*, 3 R. 857; 13 S. L. R. 556; 1 Tax Cas. 122.

The Glasgow Corporation Gas Act, 1869, authorized the corporation to acquire certain gasworks, and to manufacture and sell gas to the inhabitants. The Act provided that the surplus revenue, after payment of annuities and interest of debt, should be applied to a sinking fund to reduce the debt, and to the general purposes of the corporation. Held, that the corporation was liable to be assessed for income tax upon such surplus revenue.

The case was distinguished from *Glasgow Water Commissioners* v. *Inland Revenue* on two grounds: 1. It was compulsory to pay for the water whether used or not; it was not compulsory to pay for the gas if none was used. 2. In administering the funds in the case of the water rate the ultimate result led to a diminution of the rate. No such result followed in the case of the gas company. The relation between the corporation and the ratepayers in regard to the gas was thus the relation between a company or corporation selling and individuals purchasing.

It will be observed that in this case importance is attached to the way in which the fund was to be administered, and stress is laid on the fact that in *Glasgow Water Commissioners* v. *Inland Revenue* the surplus was to be applied in reduction of the water rate. This distinction is not now good law, and the sole difference between the two cases is that in the water case there was no trading, while in the gas case there was.

1900. *Harris* v. *Corporation of Irvine*, 2 F. 1080; 4 Tax Cas. 221; 37 S. L. R. 799.

The local authority of the burgh of Irvine, in the exercise of their statutory powers, entered into contracts to supply with water the parish of Stevenston and the burgh of Saltcoats, districts outside the compulsory area of Irvine. The contracts provided that a sum should be payable annually by Stevenston and Saltcoats respectively; the amount of which, subject to a deduction of 10 per cent., was to be the amount produced by a compulsory water rate upon all assessable subjects within those districts, leviable by their own local authorities. The rate of assessment was to be the same as that from time to time imposed within its compulsory area by the local authority of Irvine:—

Held, (1) that the sums payable by Stevenston and Saltcoats, although leviable in those districts as a compulsory rate, were, as regarded Irvine, the price of water supplied outside its compulsory area, and that the surplus, so far as derivable from this source, was profit, and chargeable with income tax; and (2) following *Mersey Docks and Harbour Board* v. *Lucas* (1883), L. R. 8 App. Cas. 891, that it was not a valid ground of exemption that profit so earned was appropriated to a sinking fund.

The Application of the Funds to Public Purposes will not free them from the Income Tax.

1871, *Att.-Gen.* v. *Black*, L. R. 6 Ex. 310.

"The true principle is that adopted in *Mersey Docks and Harbour Board* v. *Cameron*, that if the fund is in its nature subject to taxation, it remains so subject, notwithstanding its proceeds are to be applied to public purposes, and the proceeds which are to be so applied are what remain after discharging the burden to which it is subject": Lord Blackburn in *Att.-Gen.* v. *Black*.

1887, *Sowrey* v. *King's Lynn Mooring Commissioners*, 2 Tax Cas. 206.

"If once you get a taxable profit or taxable revenue or taxable sum of money, it is perfectly immaterial what the destination of that sum may be": Smith, J., in *Sowrey* v. *King's Lynn Mooring Commissioners*.

1883. *Mersey Docks* v. *Lucas*, L. R. 8 App. Cas. 891.

A corporation was constituted for the management of the Mersey Dock estate by an Act which provided that the moneys to be received by them from their dock dues and other sources of revenue should be applied in payment of expenses, interest upon debts, construction of works, and management of the estate; and that the surplus should be applied to a sinking fund for the extinguishment of the principal of the debts; and that after such extinguishment the rates should be reduced; and that except as aforesaid the moneys should not be applied for any other purpose whatsoever, and that nothing should affect their liability to parochial or local rates:—

Held, that under the Income Tax Acts the corporation was liable to income tax in respect of the surplus, though applicable to the above-named purposes only.

1884. *Paddington Burial Board* v. *Commissioners of Inland Revenue*, L. R. 13 Q. B. D. 9.

A burial board was constituted under 15 & 16 Vict. c. 85, and in pursuance of the Act a burial ground was provided with money charged upon the poor rate of the parish, and the surplus over expenditure of the income derived from the fees charged by the board was regularly applied in aid of the poor rate:—

Held, that the board were liable to be assessed to the income tax in respect of such surplus, inasmuch as the provision requiring it to be applied in aid of the poor rate did not prevent it from being a "profit" within 5 & 6 Vict. c. 35, s. 60.

1887. *Corporation of Dublin* v. *M'Adam*, 20 L. R. Ir. 497; 2 Tax Cas. 387.

By the Dublin Corporation Waterworks Act, 1861, the corporation were empowered to construct waterworks for the supply of water to the borough of Dublin and certain extra-municipal districts, and were authorized to

borrow money for the purposes of the Act on the rates leviable under it, and empowered to levy certain rates on the owners and occupiers of property within the borough. They were also authorized to contract with owners or occupiers of property in the extra-municipal districts for the supply of water for domestic use and to charge rate or rent for such supply, to be called a "contract water rate."

By the Dublin Waterworks Act, 1870, it was provided that the income derived from the extra-municipal districts should form, with the city rates, a consolidated fund, available for the payment of principal and interest of loans, and applicable to all the purposes of the Act:—

Held, that the excess of receipts over expenditure in respect of extra-municipal districts was liable to income tax.

1887. *Sowrey* v. *King's Lynn Mooring Commissioners*, 3 T. L. R. 516; 2 Tax Cas. 206.

Tolls raised and applied under Act of Parliament. The Corporation of King's Lynn contributed 60,000*l.* towards the making of a cut from the Wash to King's Lynn, and to enable the corporation to repay the money borrowed for the purpose, the Harbour Mooring Commissioners were empowered by Act of Parliament to levy dues for the use of the corporation on all ships using the cut:—

Held, that the dues were liable to income tax.

1890. *Portobello Town Council* v. *Sulley* (*Surveyor of Taxes*), 2 Tax Cas. 647; 27 S. L. R. 683.

A burgh council are required by Act of Parliament to provide a burial ground. The receipts therefrom exceed the working expenses; but the council have to repay by instalments the capital borrowed to acquire and construct the cemetery, and to pay interest on the undischarged capital debt:—

Held, that income tax is chargeable on the profits after deducting only the working expenses.

The Effect of 29 *&* 30 *Vict. c.* 36, *s.* 8.

There has been considerable difficulty in deciding what is the effect of this section. In 1877, *Knowles* v. *M'Adam*, L. R. 3 Ex. D. 23, it was held that the effect was to transfer the concern from Schedule (A.) to Schedule (D.), save in so far as there might be anything in Schedule (D.) inconsistent with No. III. The facts of this case were as follows:—A colliery company bought freehold and leasehold coal mines, and raised some of the coal and sold it. At the end of the first year's working, the mines, by reason of the coal gotten during the year, were worth 10,424*l.* less than the price for which they were bought. The company being assessed to the income tax claimed to deduct the 10,424*l.* as exhausted capital. This deduction was allowed under Schedule (D.).

This case was overruled in 1881 by *Coltness Iron Co.* v. *Black*, L. R. 6 App. Cas. 315, in which it was decided that a tenant of minerals, though he may be under a constant vanishing expense in sinking new pits as the old ones become exhausted, is not entitled, in computing the profits for assessment of income tax, to deduct from the gross profits a sum estimated as representing the amount of capital expended in making bores and sinking pits which have been exhausted by the year's workings. Earl Cairns said: "I do not think this question is affected by 29 Vict. c. 36. That Act provides that mines shall be charged and assessed according to the rules prescribed by Schedule (D.) of the principal Act, so far as such rules are consistent with No. III. of Schedule (A.). But the thing to be assessed remains the same." And Lord Blackburn said, at p. 337: "In *Knowles* v. *M'Adam*, Chief Baron Kelly says: 'It is quite clear that sect. 8 of 29 Vict. c. 36. transfers the present case' (that of a coal mine) 'from Schedule (A.) to Schedule (D.),' and the judgments of the Barons in that case seem to me to depend a good deal on this, as it seems to me, erroneous assumption. I think that the duties are to be assessed according to the rules in Schedule (D.),

and consequently all the anxiously-devised provisions for keeping the returns under Schedule (D.) secret and confidential, to be found from sect. 100 to sect. 131, are made in future to apply to returns for the concerns described in No. III. of Schedule (A.), and any rule expressed as to the mode of computing the balance of the profits and gains during the period of three years given in Schedule (D.) which is not inconsistent with No. III. may perhaps be made in future to apply to the mode of computing the annual profits of properties chargeable under No. III. And I see that in *Addie* v. *Solicitor of Inland Revenue* reliance is placed on the judgment of the Lord President on the third rule as to concerns under the first case of Schedule (D.), that no deduction is to be made 'for any sum employed, or intended to be employed as capital.' But I do not think reliance can be placed on this. If, from the nature of the concerns in No. III., an allowance ought to be made for capital, then this rule should be rejected as inconsistent with No. III. If no allowance should be made, the rule is not required."

1875, *Addie* v. *Solicitor of Inland Revenue*, 2 Sc. Ses. Cas. 4th Series, 431; 12 S. L. R. 284; 1 Tax Cas. 1.

It might be thought from this dictum of Lord Blackburn that none of the rules with regard to allowances and deductions in Schedule (D.) are applicable to concerns in Schedule (A.), No. III. This would not, however, be consistent with the case of *Dillon* v. *Corporation of Haverfordwest*, which was a gasworks case, and in which reliance was placed by Charles, J., on the first rule applicable to the first and second cases of Schedule (D.), which declares that no deduction shall be made for any disbursements or expenses not being wholly and exclusively laid out for the purposes of the trade or concern. In order to reconcile this with the dictum of Lord Blackburn, we must interpret Lord Blackburn as saying that the particular rule preventing deductions for sums employed as capital in Schedule (D.) is not applicable to concerns in Schedule (A.), No. III.; but this does not prevent other rules in Schedule (D.) with regard to deductions from being applicable to those concerns.

Dillon v. *Corporation of Haverfordwest*, [1891] 1 Q. B. 575.

Rules deduced.

We therefore deduce the following rules:—

(1.) If, from the nature of the concerns in Schedule (A.), No. III., the rules in Schedule (D.) are inapplicable they must not be applied, although they are not directly inconsistent with Schedule (A.), No. III.

(2.) Apart from this, if not inconsistent with Schedule (A.), No. III., the said rules in Schedule (D.) are applicable to concerns in Schedule (A.), No. III.

Thus,

(1.) The rule preventing deductions for sums employed as capital in Schedule (D.) is not applicable to concerns in Schedule (A.), No. III.

(2.) The rule preventing deductions for any expenses not being wholly laid out for the purposes of the trade or concern in Schedule (D.) is applicable to concerns in Schedule (A.), No. III.

The following is an example of the application of the rules in Schedule (D.) to a concern in Schedule (A.), No. III.:—

Example.

Schedule (D.) contains a rule (Rule 4 applying to cases 1 and 2), which provides that in a case of change of partners, where, since the change, the profits and gains have fallen short from some specific cause, the period on which the profits and gains are averaged for assessment is altered.

In *Ryhope Coal Co.* v. *Foyer*, this rule was applied to the case of a coal mine, the result being that the exception to the rule in Schedule (D.) was held applicable to a concern to which the rules of Schedule (D.) are applied by 29 Vict. c. 36.

1881, *Ryhope Coal Co.* v. *Foyer*, L. R. 7 Q. B. D. 485.

The proper period in No. III. is five years, that in Schedule (D.) is three years. Lindley, J., held that the period of five years must be read into Schedule (D.) instead of three years, but that the exception to the three year rule in Schedule (D.) was equally good as an exception to the five year rule so read in.

Miller v. *Farie* is to the same effect as *Ryhope Coal Co.* v. *Foyer*, with this important difference, that in *Miller* v. *Farie* it was laid down that in the assessment of income tax on the profits of mines, they are to be estimated upon an average of three years, according to Schedule (D.), and not on an average of five years, as prescribed in Schedule (A.), No. III.

1878, *Miller* v. *Farie*, 6 Sc. Ses. Cas. 4th Series, 270; 16 S. L. R. 189.

The Lord President there said: "It appears to me impossible to read that as meaning that we are to proceed according to the rules prescribed by Schedule (D.) so far as such rules are consistent with the rules in No. III. of Schedule (A.), because they are not consistent. They are quite different, and the meaning of the legislature must therefore be that the duty is to be laid on in the manner prescribed by No. III. of Schedule (A.), but that the rules for ascertaining the annual value are to be taken from Schedule (D.), and it is so I construe this statute of the 29 Vict. c. 36."

This part of the decision in *Miller* v. *Farie* is directly opposed to the judgment of Lindley, J., in *Ryhope Coal Co.* v. *Foyer*, and seems also inconsistent with the judgment of Lord Blackburn in *Coltness Iron Co.* v. *Black*. It is also inconsistent with the judgment of Charles, J., in *Dillon* v. *Corporation of Haverfordwest*, in which he says that the three years' interval in Schedule (D.) is not substituted for the one year's interval in Schedule (A.), No. III., applicable to gasworks. It must, therefore, be considered as bad law.

Allowances and Deductions under Schedule (A.), No. III.

We have already discussed the difficulty in discovering from the decided cases how far the rules in Schedule (D.) are applicable for the purpose of informing us what deductions may be allowed for the concerns in Schedule (A.), No. III., which, by 29 & 30 Vict. c. 36, s. 8, are to be charged and assessed to the duties according to the rules prescribed by Schedule (D.) so far as such rules are consistent with No. III. We shall now give a summary of the cases.

Repayment of Money expended in Renewal of Works.

1875. *Hall* v. *King's Lynn Harbour Moorings Commissioners*, 1 Tax Cas. 23.

A deduction allowed for revenue applied under Act of Parliament for repayment of money expended in the renewal of works.

This case seems inconsistent with the principle of the later cases and must be considered of doubtful authority. See *Coltness Iron Co.* v. *Black* (1881), L. R. 6 App. Cas. 315.

Capital expended in sinking Pits.

1875. *Addie* v. *Solicitor of Inland Revenue*, 2 R. 431; 12 S. L. R. 284; 1 Tax Cas. 1.

In computing profits a tenant of minerals is not entitled to make deductions from the gross receipts of sums necessary to replace capital expended in sinking pits or lost by depreciation of buildings and machinery, because these are simply expenditure of capital.

The decision in this case, so far as the capital expended in sinking pits and lost by depreciation of buildings is concerned, is in its result in accordance with the later cases; but as to the reasons given in the judgment of the Lord President we have already quoted the opinion of Lord Blackburn in *Coltness Iron Co.* v. *Black*, *supra*, p. 137. As to depreciation of machinery, it is, with *Forder* v. *Handyside*, reversed by 41 & 42 Vict. c. 15, s. 12, *infra*.

1876, *Forder* v. *Handyside*, L. R. 1 Ex. D. 233.

1881. *Coltness Iron Co.* v. *Black*, L. R. 6 App. Cas. 315.

A tenant of minerals, though he may be under a constant vanishing expense in sinking new pits as the old ones become exhausted, is not entitled, in computing the profits for assessment of income tax, to deduct from the gross profits a sum estimated as representing the amount of capital expended in making bores and sinking pits, which have been exhausted by the year's working. (But if the sinking of the pit be working expenditure, a deduction may be allowed. See *Morant* (*Surveyor of Taxes*) v. *Wheal Grenville Mining Co.* (1894), 11 T. L. R. 67; 71 L. T. 758.)

Wear and Tear of Machinery and Plant.

41 & 42 Vict. c. 15, s. 12. Wear and tear of machinery and plant.

The Customs and Inland Revenue Act, 1878—

12. Notwithstanding any provision to the contrary contained in any Act relating to the income tax, the Commissioners for General and Special Purposes shall, in assessing the profits or gains of any trade, manufacture, adventure, or concern in the nature of trade, chargeable under Schedule (D.), or the profits of any concern chargeable by reference to the rules of that Schedule, allow such deduction as they may think just and reasonable as representing the diminished value by reason of wear and tear during the year of any machinery or plant used for the purposes of the concern, and belonging to the person or company by whom the concern is carried on; and for the purpose of this provision, where machinery or plant is let to the person or company by whom the concern is carried on upon such terms that the person or company is bound to maintain the machinery or plant, and deliver over the same in good condition at the end of the term of the lease, such machinery or plant shall be deemed to belong to such person or company. And when any machinery or plant is let upon such terms that the burden of maintaining and restoring the same falls upon the lessor, he shall be entitled on claim made to the Commissioners for General or Special Purposes, in the manner prescribed by section sixty-one of 5 & 6 Vict. c. 35 (*a*), to have repaid to him such a portion of the sum which may have been assessed and charged in respect of the machinery or plant, and deducted by the lessee on payment of the rent, as shall represent the income tax upon such an amount as the said Commissioners may think just and reasonable, as representing the diminished value by reason of wear and tear of such machinery or plant during the year: Provided that no such claim shall be allowed unless it shall be made within twelve calendar months after the expiration of the year of assessment.

7 Edw. 7, c. 13.

(*a*) See p. 157. As to the interpretation placed on the section, see Schedule (D.), and the Finance Act, 1907, s. 26, *post*, p. 227.

Depreciation of Capital.

1878. *Miller* v. *Farie*, 6 R. 271; 16 S. L. R. 189.

Under Schedule (D.) of the Income Tax Act, 1842, in estimating the full amount of the balance of the profits and gains of a colliery which was worked by the proprietor:—held, that no allowance was to be made for depreciation of capital by the mine being worked out.

1889. *Edinburgh Southern Cemetery Co.* v. *Surveyor of Taxes*, 17 R. 154; 27 S. L. R. 71; 2 Tax Cas. 516.

A cemetery company under its contract of copartnery had power to sell and dispose to any person of the use of pieces of ground in the cemetery for burial purposes in perpetuity:—

Held, that the proceeds of such sales of the right of sepulture during the year were assessable for income tax without deduction of any part thereof in respect of its being a realization or conversion of capital.

Sum set aside to restore Plant and Apparatus.

1888. *Clayton* v. *Newcastle-under-Lyme Corporation*, 2 Tax Cas. 417.

A corporation purchasing gasworks in a defective structural condition is not entitled to deduct sums set aside annually to be expended in future years on restoring the plant and apparatus.

Various.

1884. *The Broughton Coal Co.* v. *Kirkpatrick*, L. R. 14 Q. B. D. 491.

A lessor received on account of his share of the profits of the concern not less than a fixed annual sum; so that when his share of the royalties did not amount to the fixed sum he received that sum; but when his share of the royalties exceeded the fixed sum he received that sum only until the lessees had been reimbursed the excess paid to the lessor when his share of the royalties did not amount to the fixed sum. In the year 1881—1882 the lessor's share of the royalties exceeded the fixed sum by 1,477*l.*, but the lessees retained this sum to reimburse themselves for excess previously paid:—

Held, that the lessees were not entitled to deduct the 1,477*l.* from their gross profits, and in estimating their profit for the year in question they (having made no profits for the previous five years) were not entitled to deduct the fixed sum paid by them during the previous five years.

1885. *Highland Railway Co.* v. *Income Tax Commissioners*, 13 R. 199; 23 S. L. R. 116;-2 Tax Cas. 151.

Deduction claimed in respect of a loss upon the working and depreciation in the value of certain steamers which had ceased to form part of the railway company's undertaking in the year of assessment. The steamer traffic had been introduced by the company and carried on under statutory powers, which were still in force, but for the year of assessment part of that traffic had been taken over and carried on by a private trader under an agreement with the company, while the rest had been given up altogether:—Held, that steamer traffic was still part of the undertaking of the company, and that the deduction should be allowed.

"If a portion of the company's business becomes unprofitable, and is dropped either permanently or for a time, the effect of that is not to make the undertaking of the company something different from what it was. They may remove that traffic if they think fit; they may discontinue it if they do not find it paying; but the undertaking of the company, the business of the company, remains exactly what it was": The Lord President.

1891. *Dillon* v. *Corporation of Haverfordwest*, [1891] 1 Q. B. 575.

By a local Act the duty was imposed upon the respondent corporation of lighting a town with gas, and the Act further provided that it should be lawful for the respondents, after lighting the town, to supply private customers with gas. The respondents, from the supply of gas to private customers, earned profits, on which they were assessed to income tax. They claimed to deduct from these profits the expenses incurred in lighting the town, as being money wholly and exclusively laid out or expended for the purposes of a trade, within the meaning of 5 & 6 Vict. c. 35, s. 100, Schedule (D.) r. 1, of the rules applying to the first and second cases:—

Held, that the lighting of the town and the supply of gas to private customers were separate and distinct operations: that no trade was carried on until the respondents, after having lighted the town, began to supply gas to private customers, and therefore the expenses incurred in lighting the town were not money laid out or expended for the purposes of a trade, and the deduction could not be allowed.

Schedule (A.), No. IV.

5 & 6 Vict. c. 35, s. 60. No. IV.

The Income Tax Act, 1842—

No. IV.—Rules and Regulations respecting the said Duties.

To be charged in the parish.

First.—All properties chargeable to the duties in Schedule (A.) shall be charged in the parish or place where the same are situate, and not elsewhere, except as herein excepted (*a*):

Except canals, railways, &c., which are to be charged where the general accounts are made up.

Provided (*b*) that the profits arising from canals, inland navigations, streams of water, drains, or levels, or from any railways or other roads or ways of a public nature, and belonging to or vested in any company of proprietors or trustees, whether corporate or not corporate, may be stated in one account, and charged in the city, town, or place at or nearest to the place where the general accounts of such concern shall have been usually made up; and it shall be lawful for the said proprietors or trustees, having paid the duties so chargeable, either to deduct a just proportion thereof from the interest payable to the creditors of the said properties, or any of them, or to pay such interest in full, without making any such deduction: and it shall be lawful for the said creditors to receive such interest in full, and they shall not be liable thereupon to the penalty hereinafter contained:

Duties may be deducted from interest payable to creditors.

Manors extending into different parishes, and fines, where to be charged.

Provided also, that the profits arising from any manor or royalty (*c*) which shall extend into different parishes may be assessed in one account in the parish where the Court for such manor or royalty shall have been usually held: Provided also, that the profits arising from all fines received by the same person, body politic or corporate, or company, may be assessed in one account, where the person to be charged under the regulations of this Act shall reside:

43 & 44 Vict. c. 19, s. 53.

(*a*) As to "place of assessment," see the Taxes Management Act, 1880, s. 53, *supra*, p. 64.

29 & 30 Vict. c. 36.

(*b*) This proviso is now inoperative. Canals, railways, &c. are assessed according to the rules in Schedule (D.). See 29 & 30 Vict. c. 36, *supra*, p. 132.

(*c*) "Royalty"—as to meaning of word, see *supra*, p. 130.

Lands in the same occupation to be charged according to the parishes.

Second.—All lands occupied by the same person shall be brought into every account thereof required to be delivered by such person under this Act, whether the same shall be occupied by such person as owner or tenant, or as tenant under distinct owners, or shall be situate in the same or in different parishes or districts, but the charge thereon shall be in each parish or district in proportion to the value of the property situate therein, of which proportions the occupier shall be required to

Proportions in each parish,

deliver an account in each parish wherein any part of such lands is situate, and a separate estimate shall be given of lands in the same occupation belonging to distinct owners; and if any occupier of lands situate in different parishes or places shall wilfully omit to deliver an account of the lands so occupied in each parish or place, although such occupier may not reside in one or more of such parishes or places, he shall be charged for the lands so omitted at treble the rate contained in this Act, over and above the penalty herein imposed:

and belonging to distinct owners, to be stated.

Provided always, that lands held under the same demise, or in the occupation of the same person as owner, although situate in different parishes, but wholly in the same district of Commissioners, may be charged in either parish, at the discretion of the said Commissioners, if they shall be satisfied that the proportion in each parish, either in respect of quantity, rent, or value of the said lands, cannot be ascertained; and if the said lands extend into different districts of Commissioners, then the assessment shall be made in that district where the occupier of such lands doth reside:

Lands in different parishes to be charged in either where the proportions cannot be ascertained.

Third.—For any dwelling-house in the occupation of a tenant which, with the buildings or offices belonging thereto and the land occupied therewith, shall be under the annual value of ten pounds, and for all lands and tenements let to any tenant for a less period than one year, the assessment thereupon shall be made on the landlord, but so as not to impeach the remedy of recovery of the duty from the occupier, in default of payment by the landlord:

Houses under 10*l.* charged on landlords.

Fourth.—For any compositions, rent, or other payments in lieu of tithes, the assessment thereupon may, if the Commissioners think fit, be made on the respective occupiers of the lands from which such tithes arise, or on the respective persons liable to the payment of such compositions, rents, or other payments; and the said Commissioners may direct notices to be delivered to such persons respectively, for the purpose of obtaining returns of the value of such compositions, rents, and payments, subject to the like penalties and under the regulations of this Act for returns of the annual value of lands:

Tithes may be charged on occupiers of land.

Tithe Commutation Rent-charges may also be assessed on the Owner.

The Income Tax Act, 1853—

16 & 17 Vict. c. 34.

32. In assessing and charging the duties under Schedule (A.) of this Act in respect of lands, tenements, or hereditaments, subject to any rent-charge under the Act for the Commutation of Tithes in England or any other rent-charge in lieu of tithes it shall be

The duties in respect of tithe commutation rent-charges

may be assessed on the owners;

lawful for the Commissioners acting in the execution of this Act if they shall think fit, on a due return of such rent-charge being made by the owner thereof in order to an assessment upon him, to charge and assess such owner in the assessment for the said parish with the duty under Schedule (A.) of this Act in respect of such rent-charge, deducting therefrom the amount of the parochial rates, taxes, and assessments charged upon or in respect of such rent-charge in the preceding year; and in the case of such assessment being made upon the owner of the said rent-charge, the amount of such rent-charge shall be allowed as a deduction in the assessment of the lands, tenements, and hereditaments on which the same is charged under the said Act for the Commutation of Tithes.

For an explanation of the law with respect to tithe rent-charges, see the Introduction.

It will be seen that, although sect. 32 of the Act of 1853 provides that the duties in respect of tithe commutation rent-charge may be assessed on the owner, it does not provide in what manner the annual value is to be determined. It has been decided that the annual value must be ascertained under the general rule in No. I.

and the annual value is to be ascertained under the general rule in No. I.

1888, *Stevens* v. *Bishop*, L. R. 20 Q. B. D. 448.

"I am of opinion that under the statute of 1842 tithe rent-charge was not an hereditament charged under Rule No. I. of Schedule (A.) as a separate hereditament, but that it was assessed as part of the annual value of the lands, and was (under No. IV. Rule 4) assessable either on the occupier of the land or on the person liable to pay the rent-charge, *i.e.*, to speak popularly, either the farmer or the landlord: that it could not be assessed on the rector or vicar, and that it was assessed on the gross amount of the rent-charge.

"This was altered by the statute of 1853 to this extent, that the Commissioners were authorized to assess the rent-charge on the rector or vicar under Schedule (A.): and by sect. 5 the earlier statute of 1842 was made applicable to the income tax under the later Act. For the first time, then, the rent-charge is treated as a separate and independent hereditament chargeable as such under Schedule (A.) on the occupant or quasi-occupant of the hereditament, *i.e.*, on the rector or vicar: and, if it is to be so chargeable, it appears to me that the annual value can be ascertained only in the way pointed out by the general rule No. I., *i.e.*, by treating the annual value as equal to the annual rent when the property is let at a rackrent, and, if not, then at the rackrent at which the same is worth to let by the year." Fry, L.J., in *Stevens* v. *Bishop*.

Deductions.

1888. *Stevens* v. *Bishop*, L. R. 20 Q. B. D. 442.

"In the case of duties in respect of tithe commutation rent-charges of which the annual value is determined by No. I., in determining the annual value, the amount necessarily and properly expended in the collection of the tithe rent-charge may be deducted.

1890, *Duke of Norfolk* v. *Lamarque*, 24 Q. B. D. 490.

"The reason for this is, that determining the annual value would involve putting up those tithes to auction, or offering them for sale by private contract, and in contemplating what the tenant would give for them the expense of collection may have to be considered": Pollock, B., in *Duke of Norfolk* v. *Lamarque*.

5 & 6 Vict. c. 35, s. 60, No. IV.

The Income Tax Act, 1842—

Mines failing,

Fifth.—If any mine, enumerated in the fifth rule, No. III., of this Schedule, has, from some unavoidable cause, been

decreased and is decreasing in the annual value thereof, so that the average of five years will not give a fair and just estimate of the annual value thereof, it shall be lawful, after due proof before the Commissioners for General Purposes in the district where such mine shall be situate, to compute such annual value on the actual amount of such profits and gains in the preceding year ending as aforesaid, subject to such abatement on account of diminution of duty within the current year as is herein provided in other cases; and if any such mine shall, from some unavoidable cause, have wholly failed, it shall be lawful for the said Commissioners, on due proof thereof, wholly to discharge any assessment made thereon:

how to be charged.

If failed, the assessment may be discharged.

Provided always, that whenever any such mine shall be situate or the produce thereof shall be manufactured in any place other than where the produce thereof shall be sold, the profits arising therefrom shall be assessed and charged in the parish and district where the said mine is situate, or where the produce thereof is manufactured and not elsewhere:

Mines to be charged where situate or produce manufactured.

Sixth.—If in estimating the value of any of the properties enumerated in No. II. or No. III. of this Schedule, as before mentioned, it shall appear that the account required by the said rules cannot be made out by reason of the possession or interest of the party to be charged thereon having commenced within the time for which the account is directed to be made out, the profits of one year shall be estimated in proportion to the profits received within the time elapsed since the commencement of such possession or interest:

Duties in certain cases to be estimated according to profits accrued since commencement of possession.

No. IV. Clause 6 does not apply in the case of a change from a partnership to a limited company where the individuals are the same, the proportionate interests are the same, and the whole property is the same, because the account can be made out just as well after as before the change: see the judgment of Grove, J., in *Ryhope Coal Co.* v. *Foyer*.

1881, *Ryhope Coal Co.* v. *Foyer*, L. R. 7 Q. B. D. 493.

Seventh.—The duty to be charged under this Schedule in respect of any house or tenement occupied by any accredited minister from any foreign prince or state shall be charged and paid by the landlord or person immediately entitled to the rent of the said house or tenement:

Houses of Foreign Ministers charged on landlord.

Eighth.—The duty to be charged in respect of any house, tenement, or apartment belonging to her Majesty, in the occupation of any officer of her Majesty, in right of his office or otherwise (except apartments in her Majesty's royal

Official houses charged on the occupiers.

palaces), shall be charged on and paid by the occupier of such house, tenement, or apartment, upon the annual value thereof:

1883, *Coomber* v. *Justices of Berks*, L. R. 9 App. Cas. 66.

The Crown by virtue of its prerogative is exempt from income tax: see p. 319. The explanation of the above rule is given by Lord Blackburn as follows:—"As the tax is imposed on the salary of such officers (*i.e.*, officers of her Majesty), it was most reasonable to provide that, where the salary was partly paid by a rent-free house, the officer should pay the tax on that house; but I cannot think that affords any ground for saying that the legislature intended to impose the tax on Crown property generally, so as to take away the exemption that would otherwise be implied." *Coomber* v. *Justices of Berks*.

Occupiers to recover from landlord, according to the rate, by deducting the duty out of the rent.

Ninth.—The occupier of any lands, tenements, hereditaments, or heritages, being tenant of the same, and paying the said duties, shall deduct so much thereof in respect of the rent payable to the landlord for the time being (all sums allowed by the Commissioners being first deducted) as a rate of sevenpence for every twenty shillings thereof would by a just proportion amount unto, which deduction shall be made out of the first payment thereafter to be made on account of rent; and the receivers of her Majesty, and all landlords, both mediate and immediate, their respective heirs, executors, administrators, and assigns, according to their respective interests, and their respective receivers or agents, shall allow such deduction upon receipt of the residue of the rent, under the penalty herein contained; and the tenant paying the said assessment shall be acquitted and discharged of so much money as if the same had actually been paid unto the person to or for whom his rent shall have been due and payable; and the occupier of lands charged on the amount of any composition, rent, or payment for tithes arising therefrom, and paying the said duties, shall be entitled to make the like deduction from such composition, rent, or payment, on paying the same.

16 & 17 Vict. c. 34, s. 40. Deductions of duty on payment of rent, interest, &c.

By the Income Tax Act, 1853—

40. Every person who shall be liable to the payment of any rent, or any yearly interest of money, or any annuity or other annual payment, either as a charge on any property or as a personal debt or obligation by virtue of any contract, whether the same shall be received or payable half-yearly or at any shorter or more distant periods, shall be entitled and is hereby authorized, on making such payment, to deduct and retain thereout the amount of the rate of duty which at the time when such payment becomes due shall be payable, for every twenty shillings of such payment; and the person liable to such payment shall be acquitted and

discharged of so much money as such deduction shall amount unto, as if the amount thereof had actually been paid unto the person to whom such payment shall have been due and payable; and the person to whom such payment as aforesaid is to be made shall allow such deduction upon the receipt of the residue of such money, under pain of forfeiting the sum of fifty pounds for any refusal so to do: Provided always, that no tenant or occupier of any property chargeable under Schedule (A.) of this Act shall be entitled to deduct or retain out of the rent thereof any greater sum than the amount of the duty which shall have been assessed and charged upon or in respect of such property, and actually paid by such tenant or occupier.

By the Revenue (No. 1) Act, 1864—

27 & 28 Vict. c. 18, s. 15. Income tax may be deducted from rent, &c. at the rate or rates chargeable during the period when the rent, &c. was accruing.

15. And whereas under and by virtue of the fortieth section of the Act passed in the sixteenth and seventeenth years of her Majesty's reign, chapter thirty-four, persons liable to the payment of rent, yearly interest, or any annuity or other annual payment therein mentioned, are entitled and authorized on making such payment to deduct and retain thereout the amount of the rate of income tax which shall be payable at the time when such payment becomes due.

Be it enacted, that the persons liable to and making any such payment as aforesaid shall be entitled and are hereby authorized to deduct and retain thereout the amount of the rate or a proportionate amount of the several rates of income tax which were chargeable by law upon or in respect of such rent, interest, annuity, or other annual payment, or the source thereof, during the period through which the same was accruing due, anything in the said recited Act to the contrary notwithstanding.

So far as sect. 40 of the Income Tax Act, 1853, and sect. 15 of 27 Vict. c. 18, are concerned, we shall at present only consider how they apply in the case of rent, which alone of their contents comes under Schedule (A.).

Rent.

The term "rent" in sect. 40 has been said by Lord Esher, M.R., to mean "annual rent."

"'Every person who shall be liable to the payment of any rent.' If that stood alone, that might be rent for less than a year, but it is followed by 'or any yearly interest of money or any annuity or other annual payment.' Dealing with this according to ordinary English idiomatic language, I think that the word 'other' obliges us to say that an annual payment is an instance of the same kind as those that have gone before, so that what have gone before are in the nature of annual payments; but besides these there are other annual payments which may be brought in. If that is so, 'any rent' becomes 'any annual rent.'" *Goslings and Sharpe* v. *Blake*. 1889, *Goslings and Sharpe* v. *Blake*, L. R. 23 Q. B. D. 327.

There seems no reason why the rent in the ninth rule should be confined to annual rent. Therefore, cases may arise to which the ninth rule is applicable; but the other two sections are inapplicable.

It seems, however, that this point is of little importance. Before the Act of 1853 was passed, it was held that the tax must have been actually paid by the tenant before he could deduct it from the rent. Thus the proviso at the end of sect. 40, which is the principal difference between that section and the ninth rule, did not make any alteration in the law. There seems no other important difference.

1809, *Pocock* v. *Eustace*, 11 R. R. 691; 2 Camp. 181; 1813, *Baker* v. *Davis*, 3 Camp. 473; 14 R. R. 814.

The following cases show that, before the Act of 1853, the tax must have been actually paid by the tenant before he could deduct it from the rent.

In *Pocock* v. *Eustace*, Lord Ellenborough said: "It is only on the production of a certificate of the tax being paid that the landlord is bound to make the allowance"; and in *Baker* v. *Davis* he said: "It is only after payment that the deduction can be claimed."

The Tenant may deduct the Tax although the Landlord is exempt.

1854. *Swatman* v. *Ambler*, 24 L. J. Ex. 184; 8 Ex. 72.

A tenant has a right to deduct from his rent the amount of property tax assessed upon and paid by him in respect of his landlord, although the landlord is not, in fact, liable to be assessed, and has before the payment claimed exemption, and that exemption has been subsequently allowed.

In Actions the Tenant may plead Payment of the Tax.

1812. *Tinckler* v. *Prentice*, 4 Taunt. 549; 13 R. R. 684.

In an action for rent the tenant may plead, as to part, that he has paid landlord's property tax to that amount, in respect of the rent due to the plaintiff claimed by the declaration, after he has in fact paid the tax. This was decided on 46 Geo. 3, c. 65.

1813. *Baker* v. *Davis*, 3 Camp. 473; 14 R. R. 814.

In an action for use and occupation, where the tenant has paid the property tax before action brought, he has a right to deduct it at the trial.

1845. *Franklin* v. *Carter*, 1 C. B. 750; 14 L. J. C. P. 241; 3 D. & L. 213; 9 Jur. 874.

Landlord's property tax paid by the tenant under the Act may be set off or deducted in an action brought by the landlord for the recovery of rent.

How the Payment is proved.

1815. *Philips* v. *Beer*, 4 Camp. 266.

In an action for rent, to entitle the tenant to deduct the property tax, it is sufficient to prove the payments by calling the collector, without producing the assessment.

1813. *Gabell* v. *Shevell*, 5 Taunt. 81.

The assessment, not the collector's receipt, is the criterion how much the tenant may deduct.

If the Tenant omits to deduct the Income Tax from the next Payment of Rent it is doubtful if he can afterwards recover it.

In the first edition of this work it was stated that a tenant in such a position could not afterwards recover the tax.

The case of *Agnew* v. *Ferguson* has, however, decided that in the case of royalties paid under a mining lease this is not the case.

The judges, with the exception of Lord Young, who dissented, seemed to consider that the remedy by deduction was additional to other remedies that the tenant might have for money paid or money had and received. It does

not appear that *Cumming* v. *Bedborough* was cited in the case, which was a pity, inasmuch as Parke, B., and Platt, B., had there held that in the case of rent the tenant could not sue the landlord for the amount.

1817. *Denby* v. *Moore*, 1 Barn. & Ald. 123; 18 R. R. 444.

An occupier of lands having for twelve years paid the tax and the full rent as it became due to the landlord without claiming any deduction on account of the tax so paid:—Held, he could not recover from the landlord any part of the tax so paid.

This was decided on 46 Geo. 3, c. 65, Sched. (A.), No. IV. 9, which is to the same effect as the present Act. See also *Andrew* v. *Hancock* (1819), 1 Bro. & Bing. 37; 3 Moore, 278.

1846. *Cumming* v. *Bedborough*, 15 M. & W. 438.

Where a tenant pays property tax assessed on the premises, and omits to deduct it in his next payment of rent, he cannot afterwards recover the amount as money paid to the use of the landlord.

This is the headnote to *Cumming* v. *Bedborough*, but it is too express. The case might have been decided on other grounds, and was so, by Pollock, C.B., who abstained from giving any opinion whether money paid, or money had and received, would lie to recover back the amount of the tax, if not deducted out of the next rent. Parke, B., however, said: "I am of opinion that the tenant, after he has paid the property tax and omitted to deduct from the next rent, cannot sue the landlord for the amount." And Platt, B., said that neither money paid nor money had and received would lie to recover back the amount of the tax.

1903. *Agnew* v. *Ferguson*, 40 S. L. R. 636; 5 F. 879.

A lessee of a mineral field who had paid income tax on royalties due to him to the landlord under a lease, on paying the royalties to the landlord did not deduct the tax:—Held (diss. Lord Young), that he was not thereby debarred from recovering the income tax from the landlord.

Sect. 158 of the Income Tax Act, 1842, seems to have some bearing on this point; it is as follows:— 5 & 6 Vict. c. 35, s. 158

Provided always, and be it enacted, that such of the said duties granted by this Act which may be detained or stopped and deducted out of the sums in respect whereof they shall be charged or deducted, shall be respectively detained at such times in each year as the said sums shall be payable to the person entitled thereto.

See also the analogous cases on deduction of income tax from interest, &c., *post*, p. 274. The Revenue (No. 1) Act, 1864, seems only to affect the rate of income tax which may be deducted, though a contrary opinion is expressed in Woodfall's Landlord and Tenant, 17th ed. p. 630.

This rule does not apply to cases where the landlord has elected to be assessed under sect. 10 of the Finance Act, 1898. 61 & 62 Vict. c. 10, s. 10.

But if the Landlord distrain for Rent and does not allow for the Tax, the Tenant can recover in respect of the Property Tax in an action for money had and received.

1813. *Graham* v. *Tate*, 1 M. & S. 609.

Where the tenant of premises under a lease, and at a rent payable half-yearly, agreed to pay all taxes except the landlord's property tax, which the landlord agreed to allow, but afterwards distrained for half a year's rent, and sold to the whole amount, without allowing for the property tax which he knew the tenant had paid to the collector:—Held, that the tenant might recover, in respect of the property tax, in an action for money had and received against the landlord.

But the Tenant must not delay in bringing his Claim.

1820. *Spragg* v. *Hammond*, 2 Bro. & Bing. 59; 4 Moore, 431.

In 1814, a distress was made on a tenant for the whole of the rent due from him, and a deduction for land tax was refused, the lease being silent as to the land tax; the tenant, having protested against his liability, paid, during five succeeding years, the land tax, without renewing in any sort the objection of his non-liability to pay:—Held, that in 1820 he could not recover, in an action for money paid to the defendant's use, any of the sums so paid for land tax.

(This is a land tax case, but the principle is the same.)

The Tenant's Assignee stands in the Shoes of the Tenant.

1816. *Clennell* v. *Read*, 7 Taunt. 50; 2 Marsh, 371.

Where the assignee of a term gave up at Michaelmas to a second assignee the occupation of a house, and afterwards paid three quarters of a year's landlord's property tax due at Michaelmas, and handed over the receipt to the succeeding occupier, it was held that the succeeding occupier, paying two quarters of a year's rent accruing at the following Christmas, might tender in part of his rent the receipt for property tax given to the former occupier, and might plead it as a payment made by himself.

See also as to "Change of Occupation," No. IX. r. 3, applying to Schedules (A.) and (B.), *post*, p. 165.

As to the power of Commissioners to settle differences between landlord and tenant and other persons respecting deductions to be made on account of duties, see the Income Tax Act, 1842, s. 160, *post*, p. 335.

Deductions from Rent under the Licensing Acts.

Hancock v. *Gillard*, [1907] 1 K. B. 47.

A deduction from rent under the Licensing Act, 1904, does not reduce the amount which the tenant is allowed to deduct from the rent under the Income Tax Acts, although the landlord has not received the full rent.

16 & 17 Vict. c. 36, s. 35. Tenants of lands who are called upon to pay arrears due from former occupiers may deduct the amount from their rent.

By the Income Tax Act, 1853—

35. Where any occupier for the time being of any lands, tenements, or hereditaments, being tenant thereof, shall be called upon and required to pay, and shall have paid, any sum or sums assessed upon or in respect of such lands, tenements, or hereditaments under the said Schedule (A.) of this Act, and which said sums or sums, or any portion thereof, ought, under the rules for charging the duties under the said Schedule, to have been paid or to be paid by any former tenant or occupier of the same lands, tenements, or hereditaments, or his executors or administrators, it shall be lawful for the said occupier for the time being to deduct and retain, from and out of any subsequent payment of rent to his landlord, the said sum or sums of money, or any portion thereof, which ought to have been or to be paid by such former tenant or occupier, or his executors or administrators as aforesaid: Provided that nothing in the said Act of the fifth and sixth years of her Majesty, chapter thirty-five, or in this Act contained shall extend to authorize the levying upon any such occupier for the time being any arrear of duty assessed under Schedule (A.) or Schedule (B.) of this Act which ought to

have been levied upon and ultimately paid and borne by any former occupier of the same lands, tenements or hereditaments; and provided also, that nothing herein contained shall be deemed or construed to alter, prejudice, or affect any remedy given by the said rules for the recovering and levying of any such sum or sums, or any portion thereof, from or upon such former tenant or occupier, or his executors or administrators.

This section prevents the tax-gatherer, who has neglected his opportunity with a former occupier, from availing himself of sect. 70 of the Income Tax Act, 1842 (*post*, p. 174), so as to make up for his neglect by levying on a new occupier. See *Reading* v. *Chew* (1898), 14 T. L. R. 468.

The Income Tax Act, 1842—

5 & 6 Vict. c. 35, s. 60, No. IV. Landlords may recover from others having interest at the like rate.

Tenth.—Where any such lands, tenements, or hereditaments are subject or liable to the payment of any rent-charge, whether under the Act passed for the commutation of tithes, or otherwise, or any annuity, fee-farm rent, rent service, quit rent, feu duty, teind duty, stipends to licensed curates, or other rent or annual payment thereupon reserved or charged, the landlord, owner, or proprietor by whom any deduction shall have been allowed as aforesaid, and the owner or proprietor being also occupier and charged to the said duties, shall deduct and retain out of every such rent-charge, annuity, fee-farm rent, rent service, quit rent, feu duty, teind duty, stipend, or other rent or annual payment aforesaid, so much of the said duties or payments on account of the same (the just proportion of the sums allowed by the Commissioners in the cases authorized by this Act being first deducted), as a like rate of sevenpence for every twenty shillings on such rent-charge, annuity, fee-farm rent, rent service, quit rent, feu duty, teind duty, or stipend, or other rent or annual payment aforesaid, respectively, shall by a just proportion amount unto; and the receivers of her Majesty, and all persons who shall be any ways entitled unto such rents, duties, stipends, or annual payments, their receivers, deputies, or agents, are hereby required to allow such deduction, upon the receipt of the residue of such moneys as shall be due and payable for such rents, duties, or annual payments, without any fee or charge for such allowance, and under the penalty herein contained; and the landlord, owner, proprietor, and occupier respectively, being charged as aforesaid, or having allowed such deduction, shall be acquitted and discharged of so much money as if the same had actually been paid unto such person to whom such rent-charge, annuity, fee-farm rent, rent service, quit rent, feu duty, teind duty, stipend, or other

rent or annual payment aforesaid, shall have been due and payable:

Fee-farm Rent.—One issuing out of an estate in fee, of at least one-fourth of the value of the lands, at the time of its reservation.

Rent Service.—So called because it has some corporeal service incident to it, as, at the least, fealty.

Quit Rent.—The fixed rents of freeholders, and ancient copyholders of a manor, which cannot be departed from.

Feu Duty.—In Scotland, where the vassal in place of military service makes a return in money which is called feu duty.

1889. *Macgregor* v. *Inland Revenue*, 16 Sc. Ses. Cas. 4th Series, 438; 26 S. L. R. 334; 2 Tax Cas. 435.

A singular successor paid to the superior for his entry a casualty of a year's rent of the lands, without deduction of income tax. The Crown, after receiving payment from the superior of income tax on the casualty, assessed the vassal for income tax on the rent. The vassal objected to the assessment, on the grounds (1) that the superior had received the whole rent for the year, and (2) that a casualty was of the same nature as a feu duty, for which deduction was allowed. The Court sustained the assessment.

London County Council v. *Att.-Gen.*, [1907] A. C. 131.

The London County Council occupy lands, as owners, on which they pay tax. They pay dividends on their stock (charged on all their property), from which they deduct tax. Their expenditure largely exceeds their income, the deficiency being made up by the rates:—

Held, that they could not set off the tax on the lands against the tax on the dividends, so as to retain an amount out of the latter equivalent to the tax they had paid on the lands.

Mortgagees in possession liable.

Eleventh.—Where any mortgagee or creditor in any heritable bond or wadset shall be in the possession of the lands, tenements, hereditaments, or heritages mortgaged or secured, such mortgagee or creditor shall be chargeable as occupier when in the actual occupation of the same, and when not in the actual occupation of the same shall be liable to such deduction as any other landlord would be; and upon the settlement of accounts between such mortgagee or other creditor as aforesaid, and the mortgagor or debtor, the duty payable in respect of the amount of the interest payable upon such mortgage or other debt as aforesaid shall be taken and allowed as so much money received by such mortgagee or other creditor as aforesaid on account of such interest:

Owner dying, how the duty is to be paid.

Twelfth.—Where any lands, tenements, hereditaments, or heritages shall be occupied by the owner at the time the assessment shall be made, who shall die before payment of the duty, the heirs, executors, administrators or assigns, or other person who on such death may become entitled to the rents and profits thereof, shall be liable to the payment of all arrears of the said duty due at the time of such death, and to all subsequent instalments for that year, according to their respective interests, without any new assessment:

Thirteenth.—Where any house shall be divided into distinct properties, and occupied by distinct owners or their respective tenants, such properties shall be charged distinct on the respective occupiers. Houses divided into distinct properties.

By the Income Tax Act, 1853— 16 & 17 Vict. c. 34, s. 36.

36. Any house or building let in different apartments or tenements and occupied by two or more persons severally shall nevertheless be charged to the duty under this Act as one entire house or tenement, and the assessment thereof shall be made on the landlord; but in default of payment by him the duty so charged and assessed may be levied on the occupier or occupiers respectively, and being paid by them or one of them shall be deducted and allowed out of the next or any subsequent payment on account of rent. Houses let in several tenements to be charged on landlords.

The Income Tax Act, 1842— 5 & 6 Vict. c. 35, s. 60, No. IV.

Fourteenth.—No deduction from the estimate or assessment on any lands, tenements, hereditaments, or heritages shall be allowed in any case not authorized by this Act, nor unless an account in writing signed by the occupier thereof, or by the party claiming such deduction, stating the nature and amount thereof, shall have been delivered to the assessor within the time and pursuant to the notice delivered by such assessor; and if any such deduction shall be made or allowed contrary to this Act, or without such account in writing as aforesaid, it shall be lawful for the surveyor or inspector to surcharge the assessment, and to charge therein a sum equal to the amount of duty by which the assessment shall have been diminished on occasion of such deduction, which surcharge shall not be annulled or vacated under any pretence whatever, but shall stand part of the assessment. Deductions not to be allowed, unless authorized by the Act, and an account thereof delivered to the assessor.

The Finance Act, 1894— 57 & 58 Vict. c. 30, s. 35.

35. In respect of the income tax hereby imposed under Schedule (A.), where the tax is charged upon annual value estimated otherwise than by relation to profits, the following provisions shall have effect:— Relief in respect of income tax under Schedule (A.) 5 & 6 Vict. c. 35.

(a) In the case of an assessment on lands inclusive of the farmhouse and other buildings (if any), the amount of the assessment shall, for the purposes of collection, be reduced by a sum equal to one-eighth part thereof; and

(b) In the case of an assessment upon any house or building (except a farmhouse or building included with lands in assessment), the amount of the assessment shall, for the purposes of collection, be reduced—

(i.) Where the owner is occupier or assessable as landlord, or where a tenant is occupier and the landlord undertook to bear the cost of repairs, by a sum equal to one-sixth part of that amount; and

(ii.) Where a tenant is occupier and undertook to bear the cost of repairs, by such a sum not exceeding one-sixth part of that amount, as may be necessary to reduce it to the amount of rent payable by him.

(c) As between the owner and a mortgagee of his property, or any person having a charge thereon or entitled to any ground-rent, rent-charge, annuity, or other annual sum payable thereout, the owner's right of deduction under the Income Tax Acts in respect of income tax shall be in no wise prejudiced or affected by the relief afforded by this section.

(d) Where the amount of the assessment in the case of lands (inclusive of the farmhouse and other buildings) is more than one-eighth, and in the case of any house or building (except a farmhouse or building included with lands in assessment) is more than one-sixth, below the rent, after deducting from such rent any outgoing which should by law be deducted in making the assessment, this section shall not apply.

Schedule (A.), No. V.

5 & 6 Vict. c. 35, s. 60. Deductions.

The Income Tax Act, 1842—

No. 5.—*Particular Deductions and Allowances in respect of the Duties under Schedule (A.).*

Tenths, &c.

First.—For the amount of the tenths and first fruits, duties, and fees on presentations paid by any ecclesiastical person within the year preceding that in which the assessment shall be made:

Procurations, &c.

Second.—For procurations and synodals paid by ecclesiastical persons on an average of seven years preceding that in which the assessment shall be made:

Repairs of chancels,

Third.—For repairs of collegiate churches and chapels, and chancels of churches or of any college or hall in any of the

universities of the United Kingdom, by any ecclesiastical or collegiate body, rector, vicar, or other person bound to repair the same, on an average of twenty-one years preceding as aforesaid, or as nearly thereto as can be produced.

The Income Tax Act, 1853—

16 & 17 Vict. c. 34, s. 34. As to deductions for the repairs of collegiate churches and chapels, chancels, &c.

34. Provided also, that the deduction allowed under Schedule (A.), No. V. of the said Act of the fifth and sixth years of her Majesty, chapter thirty-five, for the repairs of collegiate churches and chapels and chancels of churches, or of any college or hall in any of the universities, by any ecclesiastical or collegiate body, rector, vicar, or other person bound to repair the same, shall, in respect of the duties under Schedule (A.) of this Act, be the amount of the sum so expended in the year preceding that in which the assessment is made, instead of an average of twenty-one years, as in the said Schedule (A.), No. V., is mentioned.

The Income Tax Act, 1842—

5 & 6 Vict. c. 35, s. 60. Parochial rates on rent-charge for tithes.

Fourth.—For the parochial rates, taxes, and assessments charged upon or in respect of any rent-charge confirmed under the Act passed for the commutation of tithes, on the amount paid in the year in which the assessment shall be made:

Land tax.

Fifth.—For the amount of the land tax charged on lands, tenements, hereditaments, or heritages under the said Act passed in the thirty-eighth year of the reign of King George the Third, where the charge thereon shall not have been redeemed:

Drainage, &c.

Sixth.—For the amount charged on lands, tenements, hereditaments, or heritages by a public rate or assessment in respect of draining, fencing, or embanking the same:

Rate of deduction.

In all which cases there shall be allowed (unless such payments or any part thereof shall be made by a tenant) such sum of money as a like rate of sevenpence for every twenty shillings of the sums paid would by a just proportion amount unto; and the sum so allowed shall be deducted from the assessment to be made on the property charged with such payments, except in the cases hereinafter otherwise provided for; (that is to say),

Allowances to ecclesiastical bodies, &c., how to be made.

Provided always, that the allowances to be granted in pursuance of the first, second, or third case may be granted to the ecclesiastical or collegiate body, rector, vicar, or other person aforesaid liable to the charges therein mentioned, in one sum, either by deducting the same from the assessment upon him (if any), or by certificate; provided that no abatement or deduction shall be made from any assessment for the allow-

ances granted in pursuance of any of the cases mentioned in this Rule in respect of any such charges or payments as aforesaid, payable out of any rent-charge confirmed under the Act passed for the commutation of tithes, but such allowances shall be granted by certificate in the manner hereinafter directed.

16 & 17 Vict. c. 34, s. 37. Deduction to be allowed under Schedule (A.) for the expenses of making and repairing sea walls and embankments.

The Income Tax Act, 1853—

37. In charging the duty under Schedule (A.) of this Act in respect of lands, an allowance and deduction shall be made for the amount expended by the landlord or owner thereof on an average of the twenty-one preceding years in the making or repairing of sea walls or other embankments necessary for the preservation or protection of such lands against the encroachment or overflowing of the sea or any tidal river, although the sums expended may not have been charged on such lands by any public rate or assessment.

1888. *Hesketh* v. *Bray*, L. R. 21 Q. B. D. 444.

Prior to 1880 the appellant was owner of salt marshes adjoining a tidal river, and liable to be flooded at every tide. In 1880 he expended a large sum in making an embankment so that the tidal water was excluded, and the marshes became valuable enclosed land yielding a large income :—

Held, that such sum was not expended within the meaning of sect. 37, because that section did not apply to sums expended in order to increase the capital value of the land to the owner by altering its condition, and therefore that the appellant was not entitled to any deduction from income tax in respect thereof.

16 & 17 Vict. c. 34, s. 38. Duties on tolls called customs levied in burghs in Scotland and expended for public purposes to be repaid.

The Income Tax Act, 1853—

38. Where in any burgh in Scotland tolls commonly known by the name of customs are levied under the authority of any Act of Parliament or charter, and are applied and expended in such burgh in or towards defraying the expenses of paving, lighting, or cleansing the same, or of the police thereof, or in or towards discharging any other similar public burdens, the duty which may have been assessed and paid under this Act upon or in respect of such tolls shall, so far as regards so much of the said tolls as shall have been so expended as aforesaid, on due proof of all the necessary facts to the satisfaction of the Commissioners for Special Purposes, be allowed and repaid under an order of the said Commissioners, in like manner as in other cases where duties are allowed and repaid under the provisions in that behalf contained in the said Act of the fifth and sixth years of her Majesty, chapter thirty-five.

The Income Tax Act, 1842— 5 & 6 Vict. c. 35, s. 61.

Mode of proceeding in order to the payment of certain allowances granted under No. V. Schedule (A.).

61. The person entitled to any of the allowances mentioned in the next preceding Rule, which are directed or authorized to be made by certificate, and which shall not have been made by deduction or abatement from the assessment, shall claim such allowance at any time after the expiration of the year of assessment, before the Commissioners for General Purposes of the district in which the property charged with the payments and charges mentioned in the said Rule shall be situate; and the said Commissioners, upon due proof before them that the claimant is entitled to such allowance, shall certify the particulars and amount thereof to the Commissioners for Special Purposes at the Head Office of Inland Revenue in England, and thereupon the said last-mentioned Commissioners shall grant an order for the payment of such allowance, directed to the Receiver-General of Inland Revenue, or to an officer for receipt or collector of the duties granted by this Act, or to a distributor or sub-distributor of stamps, as may be most convenient for the party entitled to such allowance, and such Receiver-General or officer as aforesaid is hereby required, on production and delivery to him of such order, to pay the amount of such allowance to the party entitled thereto out of any money in the hands of such Receiver-General or officer arising from any duties placed under the management of the Commissioners of Inland Revenue, taking the receipt of the party entitled to such allowance for the same, by indorsement on such order.

The Income Tax Act, 1853— 16 & 17 Vict. c. 34, s. 42.

Deduction of duty to be allowed on payment of rent-charges under the Drainage Advances Acts.

42. And whereas under certain Acts of Parliament advances of public money to promote the improvement of lands have been made by way of loan, and in Ireland under an Act passed in the tenth year of her Majesty, chapter ten, and any Acts amending the same, and under an Act passed in the fifth and sixth years of her Majesty, chapter eighty-nine, for river drainage, and any Acts amending the same, and the repayment thereof has been secured by a rent-charge upon such lands to be paid for a term limited by the said Acts respectively, and by which the principal sums advanced will eventually be repaid with interest thereon, and it is just that provision should be made for deducting and allowing the duty charged by this Act in proportion to such interest on the payment of such rent-charge: It shall be lawful for any person paying any such rent-charge from time to time to deduct and retain thereout in respect of the duty chargeable under this Act one third

part of the sum which the rate of such duty computed on such rent-charge will amount to and no more, and the collectors and receivers of such rent-charges are hereby required to allow such deduction upon receipt of the residue of such rent-charge then due.

Schedule (A.), No. VI.

5 & 6 Vict. c. 35, s. 61.

The Income Tax Act, 1842—

No. VI.—*Allowances to be made in respect of the said Duties in Schedule* (*A.*).

Allowances for colleges and halls in universities;

For the duties charged on any college or hall in any of the universities of the United Kingdom, in respect of the public buildings and offices belonging to such college or hall, and not occupied by any individual member thereof, or by any person paying rent for the same, and for the repairs of the public buildings and offices of such college or hall, and the gardens, walks, and grounds for recreation repaired and maintained by the funds of such college or hall:

hospitals, public schools, almshouses.

Or on any hospital, public school, or almshouse, in respect of the public buildings, offices, and premises belonging to such hospital, public school, or almshouse, and not occupied by any individual officer or the master thereof, whose whole income, however arising, estimated according to the rules and directions of this Act, shall amount to or exceed one hundred and fifty pounds per annum, or by any person paying rent for the same, and for the repairs of such hospital, public school, or almshouse, and offices belonging thereto, and of the gardens, walks, and grounds for the sustenance or recreation of the hospitallers, scholars, and almsmen, repaired and maintained by the funds of such hospital, school, or almshouse, or on any building the property of any literary or scientific institution, used solely for the purposes of such institution, and in which no payment is made or demanded for any instruction there afforded, by lectures or otherwise; Provided also, that the said building be not occupied by any officer of such institution, nor by any person paying rent for the same:

The said allowances to be granted by the Commissioners for General Purposes in their respective districts:

Rents of lands belonging to hospitals, public schools, and almshouses, or vested in trustees for charitable purposes.

Or on the rents and profits of lands, tenements, hereditaments, or heritages belonging to any hospital, public school, or almshouse, or vested in trustees for charitable purposes, so far as the same are applied to charitable purposes:

The said last-mentioned allowances to be granted on proof before the Commissioners for Special Purposes of the due

application of the said rents and profits to charitable purposes only, and in so far as the same shall be applied to charitable purposes only:

The said last-mentioned allowances to be claimed and proved by any steward, agent, or factor acting for such school, hospital, or almshouse, or other trust for charitable purposes, or by any trustee of the same, by affidavit to be taken before any Commissioner for executing this Act in the district where such person shall reside, stating the amount of the duties chargeable, and the application thereof, and to be carried into effect by the Commissioners for Special Purposes, and according to the powers vested in such Commissioners, without vacating, altering, or impeaching the assessments on or in respect of such properties; which assessments shall be in force and levied notwithstanding such allowances.

By the Revenue Act, 1889—

52 & 53 Vict. c. 42, s. 12. Allowance of income tax Schedule (A.) to friendly societies.

12. Any friendly society which is legally established under any Act of Parliament relating to friendly societies, and which does not assure or grant to any individual any sum or annuity to an amount which would debar that society from the benefit of the exemption granted to friendly societies by the Act of the session held in the 5 & 6 Vict. c. 35, in respect of the stocks, dividends, and interest chargeable under Schedule (C.) of the said Act, shall, in addition to any exemption from income tax which the society may by law enjoy, be entitled to the like allowances in respect of any charge under Schedule (A.) to be made on the lands, tenements, hereditaments, or heritages belonging to the society as are granted to colleges and other properties mentioned in No. VI. of that Schedule in section sixty-one of the said Act.

The sum must not exceed 200*l.* nor the annuity 30*l.*: see Schedule (C.).

The Trade Union (Provident Funds) Act, 1893—

56 Vict. c. 2, s. 1. Provident funds of trade unions to be exempt from income tax.

1. A trade union duly registered under the Trade Union Acts, 1871 and 1876, shall be entitled to exemption from income tax chargeable under Schedules (A.), (C.), and (D.) of any Acts for granting duties of income tax in respect of the interest and dividends of the trade union applicable and applied solely for the purpose of provident benefits.

Provided always, that the exemption shall not extend to any trade union by the rules of which the amount assured to any member, or person nominated by or claiming under him, shall exceed the total sum of two hundred pounds, or the amount of

any annuity granted to any member, or person nominated by him, shall exceed the sum of thirty pounds per annum.

56 Vict. c. 2, s. 2. Mode of claiming exemption.

2. The exemption shall be claimed and allowed in the same manner as is prescribed by law in the case of income applicable and applied to charitable purposes.

56 Vict. c. 2, s. 3. Definition of provident benefits.

3. In this Act the expression "provident benefits" means and includes any payment made to a member during sickness or incapacity from personal injury, or while out of work; or to an aged member by way of superannuation, or to a member who has met with an accident or has lost his tools by fire or theft, or a payment in discharge or aid of funeral expenses on the death of a member or the wife of a member, or as a provision for the children of the deceased member, where the payment in respect whereof exemption is claimed is a payment expressly authorized by the registered rules of the trade union claiming the exemption.

"**Hospital, public school, or almshouse,**" meaning of.

1887, *Blake* v. *Mayor, &c. of City of London*, L. R. 19 Q. B. D. 81.

"I agree entirely with the observations of Denman, J., in the Court below, where he says, 'the intention seems to have been to exempt not merely institutions which were purely charitable, but institutions *ejusdem generis* with the colleges and halls which form the first class of property exempted. There can be no doubt that the colleges and halls of the universities are not institutions wholly supported by charity. I think it is clear that the legislature did not intend the exemption to be in favour only of schools wholly supported by charity. The enactment seems to have been drawn with a mixed intention, viz., to exempt charitable institutions, and to exempt certain institutions partly depending on charity, perhaps in view of the beneficial character of the objects of those institutions'": Fry, L.J., in *Blake* v. *Mayor, &c. of City of London.*

1888, *Needham* v. *Bowers*, L. R. 21 Q. B. D. 442.

"The Act must be restricted to hospitals supported wholly or in part by charity, and it does not apply to a hospital which is self-supporting, and which, indeed, has a large annual surplus derived from the payments made by patients. . . . We do not think the fact that in its origin the institution was founded by voluntary charitable donations is sufficient to constitute it an institution partly maintained by charity. It was started by charity, but is maintained wholly out of payments made by those who use it": Huddlestone, B., and Charles, J., in *Needham* v. *Bowers.*

The following are the cases in order of date:—

1887. *Blake* v. *Mayor and Citizens of the City of London*, L. R. 18 Q. B. D. 437; L. R. 19 Q. B. D. 79.

The application of Rule 6 is not limited to public schools maintained wholly by charity, but the rule applies to a public school maintained partly by charitable endowments and partly by fees charged for instruction.

1888. *Needham* v. *Bowers*, L. R. 21 Q. B. D. 436.

An institution for the reception of insane persons was founded by charitable donations, but unendowed. It was vested in trustees and managed gratuitously by a committee, and supported wholly out of payments made by the patients, of whom some paid more, some less, than the cost of their maintenance, and a few were maintained gratuitously. After paying expenses there was an annual surplus of profits which was expended in enlarging and improving the institution:—

Held, that the institution, being wholly self-supporting, was not exempt as

a "hospital" within the meaning of 5 & 6 Vict. c. 35, s. 61, r. 6, which must be restricted to hospitals maintained wholly or in part by charity.

Cawse v. *The Committee of the Nottingham Lunatic Hospital*, [1891] 1 Q. B. 585.

An institution for the reception of insane persons was founded by charitable contributions; it was partly and substantially supported by funds derived from charitable sources, having an endowment fund, and a small portion of its income being derived from subscriptions. It was vested in trustees and managed gratuitously by a committee. During the year previous to that for which the assessment was made, the income derived from the payments made by patients and from the sale of produce on a farm belonging to the institution, without taking into account the income arising from the endowment fund and the annual subscriptions, exceeded the total expenditure.

Held, that the institution was not wholly self-supporting merely because the income derived from the payments of patients and the sale of produce had in a particular year exceeded the expenditure, but was a hospital maintained in part by charity, and was therefore exempt from landlord's property tax as being a hospital within the meaning of 5 & 6 Vict. c. 35, s. 61, r. 6.

"The question is, what is the character of the institution itself? And the character of this institution differs from the character of the institution which was under consideration in the case of *Needham* v. *Bowers* in this respect, that whereas in *Needham* v. *Bowers* the institution was maintained wholly out of the payments by patients, and had no charitable endowment whatever, in this case there is a substantial charitable endowment which amounts to many hundreds a year." Charles, J.

1897. *Bain* (*Surveyor of Taxes*) v. *The General Trustees of the Free Church of Scotland*, 24 R. 496; 34 S. L. R. 351; 3 Tax Cas. 530.

A theological college, intended primarily for the training of candidates for the ministry of the Free Church of Scotland, and the regular students of which required either to be graduates or to have passed through a University course of Arts before they were admitted to the college, is not a "public school."

Trustees of the Mary Clark Home v. *Anderson*, [1904] 2 K. B. 645.

A home for ladies of fifty years of age and upwards in reduced circumstances provided everything except furniture, food, clothing, washing, and medical attendance. The ladies must have a paid yearly income of not less than £25 or more than £55.

Held, that the home was an almshouse, inasmuch as the ladies were admitted because they were poor.

Literary or Scientific Institution.

1892. *Inland Revenue* v. *Royal College of Surgeons of Edinburgh*, 19 R. 751; 29 S. L. R. 620; 3 Tax Cas. 173.

The hall, library, and museum of the Royal College of Surgeons of Edinburgh is not exempt on the ground of the college being a literary or scientific institution because the main objects of the institution are professional.

Mayor, Aldermen, and Citizens of Manchester v. *McAdam*, [1896] A. C. 500.

A public library vested in a library authority under the Public Libraries Act, 1892, is "a building the property of a literary and scientific institution."

1897. *Musgrave* (*Surveyor of Taxes*) v. *Magistrates and Town Council of Dundee*, 24 R. 930; 34 S. L. R. 702; 3 Tax Cas. 552.

In the buildings of the Dundee free library accommodation was given to books belonging to the Dundee subscription library, and the expenses attending their safe keeping and circulation among the subscribers were

defrayed out of the revenues of the free library. In consideration of the accommodation and services so given, each book, after being in circulation for a year, became the property of the free library.

Held, that the buildings were not used "solely" for the purposes of the free library, and were therefore not exempt.

Rents and Profits of Lands, &c.

1893. *Surveyor of Taxes* v. *General Trustees of Free Church of Scotland*, 20 R. 759; 30 S. L. R. 666.

The general trustees of the Free Church of Scotland having been assessed for income tax on the annual value of their Assembly Hall under the general rule of Schedule (A.), claimed exemption in respect of this branch of Rule 6 of sect. 61, Schedule (A.).

It appeared that the Assembly Hall was used for church purposes, and was unlet and yielded no rents or profits.

Held, that the part of Rule 6 founded on had no application to the case, as the Assembly Hall yielded no rents or profits.

Hue v. *Visitors of the Lunatic Asylum for the County of Salop, &c.* 39th Report of the Commissioners of Inland Revenue, 134.

A house and grounds within the walls of a lunatic asylum was occupied, rent free, by the medical superintendent, whose income amounted to such a sum as to make him liable to income tax. The asylum premises were exempted under No. VI. of Schedule (A.).

Held, that the house and grounds were liable to assessment.

"Charitable Purposes"—Meaning of.

These words have a technical meaning as well as their ordinary meaning, and in interpreting the statute there has been considerable doubt which meaning should be employed. The technical meaning arose in the Court of Chancery, which gave to the words "charitable purposes" the meaning attached thereto in the Statute of Charitable Uses, 43 Eliz. c. 4, which meaning is much wider than the ordinary meaning.

The Act of 43 Eliz. c. 4, does not extend to Scotland and Ireland, but the technical meaning attached to the words "charitable purposes" has been noticed in these countries, more particularly in the latter, though to what extent is a question of argument.

The question arose in the case of *Commissioners for Special Purposes of Income Tax* v. *Pemsel*, as to whether the wide technical meaning should be applied in construing the Income Tax Act, 1842, and the House of Lords decided in the affirmative.

The Commissioners for Special Purposes of the Income Tax v. *Pemsel*, [1891] A. C. 531.

Lands in England were conveyed by deed in 1813 to trustees upon trust, after payment of costs and outgoings, to apply two-fourths of the rents and profits for the general purposes of maintaining, supporting and advancing the missionary establishments among heathen nations of the Protestant Episcopal Church, commonly known as the Moravian Church.

Held, that the words "charitable purposes" in the Act were not restricted to the meaning of relief from poverty, but must be construed according to the legal and technical meaning given to those words by English law and by legislation applicable to Scotland and Ireland as well as England, and that the allowance ought to be granted.

5 & 6 Vict. c. 35, s. 62. Special Commissioners certify allowances

The Income Tax Act, 1842—

62. Where any allowance mentioned in Number VI. of the said Schedule (A.) shall be granted by the Commissioners for Special Purposes, under the authority of this Act, they shall give a

certificate thereof, together with an order for payment of the same, directed to the Receiver-General of Inland Revenue, or to an officer for receipt or collector of the duties granted by this Act, or to a distributor or sub-distributor of stamps in the manner herein provided with respect to allowances to be granted under Number V. of the said Schedule, and such allowance shall in like manner be paid to the party entitled thereto.

granted under No. VI. Schedule (A.), and order payment thereof.

The Income Tax Act, 1842—

5 & 6 Vict. c. 35, s. 63.

63. The duties hereby granted, contained in the Schedule marked (B.), shall be assessed and charged under the following rules, which rules shall be deemed and construed to be a part of this Act, and to refer to the said last-mentioned duties as if the same had been inserted under a special enactment.

Duties in Schedule (B.) and rules deemed part of the Act.

Schedule (B.).

The Income Tax Act, 1853—

16 & 17 Vict. c. 34, s. 2.

For and in respect of the occupation of all such lands, tenements and hereditaments, and heritages as aforesaid, and to be charged for every twenty shillings of the annual value thereof.

"Heritage" is a technical Scotch word. Fry, L.J., in 1888, *R.* v. *Commissioners of Income Tax*, L. R. 22 Q. B. D. 296.

We shall now give the rules for assessing and charging the duties under Schedule (B.). It will be observed, as in Schedule (A.), that the duties are charged on the annual value. The rules will explain how the annual value is to be determined. In determining the annual value for any particular year, the Income Tax Act for that year sometimes allows us to use the annual value arrived at for the preceding year. See *ante*, p. 126.

The Customs and Inland Revenue Act, 1897—

50 & 51 Vict. c. 15, s. 18.

18. It shall be lawful for any person occupying lands for the purposes of husbandry only to elect to be assessed to the duties of income tax chargeable under Schedule (D.), and in accordance with the rules of that schedule, in lieu of assessment to the duties under Schedule (B.).

Farmers may elect to be charged under Schedule (D.).

The election of such person shall be signified by notice in writing delivered personally or sent by post in a registered letter to the surveyor of taxes for the district within two calendar months after the commencement of the year of assessment; and from and after the receipt of such notice the charge upon him to the duties of income tax for such year shall be under Schedule (D.), and the profits and gains arising to him from the occupation of the lands shall for all purposes be deemed to be profits or gains of a trade chargeable under that section.

5 & 6 Vict. c. 35, s. 63.

The Income Tax Act, 1842—

No. VII.—*Rules for assessing and charging the Properties under Schedule (B.).*

To be charged in addition to Schedule (A.) on the same properties, except for dwelling-houses distinct from farms, and for buildings occupied for trade or professions.

The duties last before mentioned shall be charged in addition to the duties to be charged under Schedule (A.) on all the properties in this Act directed to be charged to the said duties, according to the general rule in Number I. Schedule (A.) before mentioned, on the full amount of the annual value thereof estimated as by this Act is directed (except a dwelling-house, and the domestic offices thereunto belonging, and which dwelling-house and offices shall not be occupied, by virtue of one and the same demise, with a farm of lands for the purpose of farming such lands, or with a farm of tithes for the purpose of farming the same; and except warehouses or other buildings occupied for the purpose of carrying on a trade or profession); provided that the several properties hereinafter described in Number VIII. shall be assessed and charged in manner therein mentioned.

1876. *Middleton* v. *Lord Advocate*, 3 R. 599; 13 S. L. R. 378; 1 Tax Cas. 109.

The lessee of a deer forest is liable to be assessed under Schedule (B.) in respect of occupying, to the extent of the rent actually paid, and not merely to the extent of the rent which the land would yield if let for pastoral or agricultural purposes.

1895. *Inland Revenue* v. *Scott*, 22 Sc. Sess. Cas., 4th Series, 772; 32 S. L. R. 585; 3 Tax Cas. 403.

The lessee of a farm for grazing under one lease and of the shooting over the farm under another lease is liable to be assessed on both.

5 & 6 Vict. c. 35, s. 63.

The Income Tax Act, 1842—

No. VIII.—*Rules for estimating the Properties hereinafter next mentioned under Schedule (B.).*

Nurseries, market gardens, and hop grounds.

The profits arising from lands occupied as nurseries or gardens for the sale of the produce, and lands occupied for the growth of hops, shall be estimated according to the rules contained in Schedule (D.), and the duty shall be charged at the rate contained in the said Schedule; and when the said duty shall have been so ascertained, the same shall be charged under Schedule (B.) as profits arising from the occupation of lands, except where the lands so occupied for the growth of hops shall be part of a farm held under one demise, or by the same person as owner, and shall not exceed one tenth part of such farm, in which case the duty thereon under this Schedule shall be charged together in one sum as for a farm by the said general rule in Schedule (A.) mentioned.

The Income Tax Act, 1853— 16 & 17 Vict. c. 34, s. 39.

Hop grounds to be charged under Schedule (B.) as other lands.

39. Provided also, that notwithstanding anything in the said Act of the fifth and sixth years of her Majesty, chapter thirty-five, contained, all lands occupied for the growth of hops shall be charged to the duties under Schedule (B.) of this Act according to the general rules contained in Schedule (B.) of the said first-mentioned Act, and not by estimating the profits of such lands according to the rules contained in Schedule (D.) of the said Act.

SCHEDULES (A.) AND (B.), No. IX.

The Income Tax Act, 1842— 5 & 6 Vict. c. 35, s. 63.

No. IX.—*Rules for charging the said Duties under Schedules (A.) and (B.)*

To be paid by the occupier.

First.—The said duties, except where other provisions are made as aforesaid for estimating particular properties, shall be estimated according to the general rule contained in Schedule (A.), and shall be charged on and paid by the occupier for the time being, his executors, administrators, and assigns:

Who shall be deemed occupiers.

Second.—Every person having the use of any lands or tenements shall be taken and considered, for the purposes of this Act, as the occupier of such lands or tenements;

Assessments to be levied on the occupier.

Third.—The said several duties shall on each assessment thereof be levied on the occupier for the time being without any new assessment, notwithstanding any change in the occupation thereof: Provided that every tenant on quitting the occupation shall be liable for the arrears at the time of so quitting, and for such further portion of time as shall then have elapsed, to be settled and levied by the respective Commissioners, and repaid to the occupier by whom the same shall have been paid; and the executors or administrators of any tenant who shall die before the payment of such assessment shall be liable in like manner as the testator or intestate would have been if living: Provided also, that every tenant quitting before the time of making the assessment shall be liable for such portion of the year as shall have elapsed at the time of his so quitting, to be adjusted and settled by the respective Commissioners.

How paid on change of occupation.

See *ante*, *p.* 150.

The Finance Act, 1898— 61 & 62 Vict. c. 10.

Power to landlords to pay income tax under Schedule (A.).

10. In assessing and charging the duties of income tax under Schedule (A.) in the Income Tax Act, 1853, in respect of any land, houses, or buildings assessable on the occupier, it shall be

lawful for the General Commissioners of Income Tax, if they shall think fit, on a request in writing to that effect from the landlord or immediate lessor delivered personally or sent by post to the clerk of the General Commissioners of Income Tax for the district, on or before the 31st day of July in any year, to charge and assess such person in the assessment for such year and subsequent years with the said duty as if he were the occupier thereof, and such duty may be recoverable from him in the same manner as any other duties of income tax are recoverable, provided that this provision is not to prejudice the right of recovery of the duty, if necessary, by distraint upon the premises or property in respect of which the assessment was made, in the same way as if the assessment had been made upon the occupier for the time being, and upon such occupier paying the same the amount thereof may be deducted and allowed out of the next or any subsequent payment on account of rent.

Provided further, that it shall be competent for any landlord or immediate lessor to cancel the said request by a notice in writing to that effect, delivered personally or sent by post to the clerk of the General Commissioners of Income Tax for the district, on or before the 31st day of July in any year.

Schedules (A.) and (B.), No. X.

5 & 6 Vict. c. 35, s. 63.

The Income Tax Act, 1842—

No. X.—*Rules for estimating the Annual Value of Properties before described in Schedules (A.) and (B.) or either of them.*

Tenant's rates and taxes paid by landlord to be deducted from the rent.

First.—Where any landlord shall be subject to any covenant or agreement to pay or satisfy, out of the rent reserved on any lands or tenements, any parochial rates, taxes, or assessments which by law are a charge on the occupier, or any composition for tithes; or where any rector, vicar, or other person entitled to any rent or other annual payment to be made in lieu of tithes, (except a rentcharge confirmed under the Act passed for the commutation of tithes,) or any composition for tithes, shall pay or satisfy out of the amount thereof any such parochial rates, taxes, or assessments charged on such tithes, rent, composition, or other annual payment aforesaid, then and in every such case the annual value shall be estimated for the purposes of this Act exclusive of such rates, taxes, or assessments, and of such composition for tithes, to be computed on the amount thereof *bonâ fide* paid by such landlord or other person aforesaid in and for the year preceding the year of assessment; or where the owner shall be also occupier of

such lands or tenements, and shall have paid any parochial rates, taxes, or assessments charged on the same, or any composition for tithes thereon, then the said annual value shall be also estimated exclusive of such rates, taxes, and assessments and composition for tithes, to be computed in like manner as aforesaid.

The Taxes Act, 1856—

19 & 20 Vict. c. 80, s. 1. Relief from income tax to landlords in Scotland in respect of public burdens not paid by landlords in England.

1. Where it shall be made to appear to the satisfaction of the Commissioners of Inland Revenue that the landlord of lands in Scotland is by law charged with any public rates, taxes, or assessments which in England are by law a charge on the occupiers of lands, or that such landlord is by law charged with any public rates or taxes or other public burdens the like whereof are not chargeable on lands in England, the said Commissioners shall cause such relief to be given to the said landlords in Scotland as shall be just and reasonable in regard to the charge of the income tax on them in respect of an annual value exceeding by the amount of such rates, taxes, assessments, and public burdens, the charge of the said tax on landlords in England, and such relief shall be given either by abatement from the assessment, or by repayment of the tax, and under such rules, regulations, and directions, as the said Commissioners shall think fit to make or give in that behalf.

The Income Tax Act, 1842—

5 & 6 Vict. c. 35, s. 63, No. X. Landlord's rates and taxes paid by tenant to be added to the rent.

Second.—Where any tenants of lands or tenements shall be subject to any covenant or agreement to pay or satisfy any aids, taxes, rates, or assessments by law chargeable on or payable by the landlord, the amount thereof which shall have been *bonâ fide* paid by such tenant in and for the year preceding the year of assessment shall, in making the estimate for the purpose of charging the duty in respect of occupation, be added to the rent reserved, in case the same shall have been let within the period of seven preceding years, and if not so let, the estimate shall be made according to the general rule in Schedule (A.) with the like addition thereto of the amount of such payment:

Amount of rent depending on price of corn or grain, how to be ascertained.

Third.—Where the amount of rent of lands or tenements reserved in money shall depend in the whole or in part on the price of corn or grain, the estimate for the purpose of charging the duties in Schedule (A.) shall be made on the amount payable according to the average prices or fiars fixed in the year preceding the year appointed for payment of the duty and in

the same manner by which such rents have usually been ascertained between the landlords and tenants; but where the whole or a part of the rent shall be reserved in corn or grain, then the said estimate shall be made on the like average price or fiar computed on the quantity of corn or grain delivered or to be delivered in the year appointed for payment of the duty; or where such computation cannot be made, the estimate aforesaid may be made on the annual value of such lands estimated according to the said general rule:

Rent depending on produce.

Fourth.—Where the amount of rent reserved on lands or tenements shall depend on the actual produce thereof, either in respect of the price or quantity of such produce, the estimate for the purpose of charging the duties in Schedule (A.) shall be made on the amount or value of such produce in the year preceding the year appointed for payment of the duty, according to the prices fixed and according to the quantity produced in that year, by the same rules and in the same manner by which such rents have usually been ascertained between the proprietors and their lessees or tenants, and where the prices or fiars shall vary in the two years of assessment, or the amount of produce shall vary in those years, the assessment shall, on appeal or surcharge, be rectified accordingly:

In Scotland the estimate to be made according to the general rule.

Fifth.—Every estimate of such property in Scotland shall be made without reference to the cess or tax roll or valued rents heretofore used in Scotland, or any stent thereon, and shall be made according to the general rule contained in Schedule (A.) to the best of the belief and judgment of the Commissioners, assessors and others employed in charging the said several duties.

5 & 6 Vict. c. 35, s. 64.

The Income Tax Act, 1842—

Assessment of lands and tenements, on what amount to be made by the assessor.

64. Upon every account of the annual value of the several properties aforesaid, to be charged under Schedules (A.) and (B.) delivered in manner before directed to the assessor, he shall make an assessment of the said property on the amount of the sum ascertained by such account, if he shall be satisfied with such amount; but if he shall not be satisfied therewith, or if no such account shall have been returned, or if the occupier or other person aforesaid shall not be resident within the limits of the district of such assessor, and no such return shall have been made, then the said assessor shall estimate, to the best of his judgment, the annual value of the said property of which no sufficient account shall have been delivered, and make an assessment of the same accordingly; and in doing so it shall be lawful for such assessor in every case

Where the annual value

relating to lands or tenements to be estimated according to the said general rule by the annual value thereof, where such annual value cannot be otherwise ascertained, and he is hereby required in every such case to make such assessment according to the following rules: (*videlicet*,)

cannot be otherwise ascertained.

No. XI.

First.—Where the last rate made for the relief of the poor in any parish or place shall be made throughout by a pound rate on the annual value, as the same would be estimated according to Schedule (A.), the assessment thereon to be made under this Act shall be made on the same sums respectively as in such rate:

To be made on the same sums if rated to the poor on full value.

Second.—Where the said rate shall be made throughout by such pound rate on any proportionate part of the annual value as aforesaid, the proportion thereof shall be observed as in the said rate, but the assessment thereon to be made under this Act shall be made at the same sums respectively as they would have been estimated at if the said rate had been made on the full amount of such annual value:

To be increased to full value if made on proportionate sums.

Third.—Where properties of different kinds shall be rated in the said rate according to different proportions of the value thereof as aforesaid, or shall be rated therein at different rates of such value, but nevertheless the properties of the same kind shall be rated in a due proportion to each other, both as to the value and rate of charge, in every such case the rule of rating lands, both as to the value and the rate of charge, shall, in making the assessment under this Act, be observed throughout, as well with respect to such lands as to the other properties therein rated, so far as relates to such rates as shall be made either on the full value of the properties or on any proportionate part thereof:

If in different proportions, the rate for lands to be the guide throughout.

Fourth.—In all cases not falling within the three preceding rules, but nevertheless where the properties shall appear to the assessor to be rated in the said rate in the same proportion to each other, though the proportion of such rate to the value of the property rated be not known, and the assessor is able to ascertain the rack-rent of all or any of the properties which shall have been so let within the period of seven years preceding within the limits of the parish or place where the said assessors shall act, he shall make an estimate of such properties on the amount of such rents respectively, and the amount contained in the estimates so made shall form the basis on which the estimates of other properties, of which the

Where the proportions of the rate are not known.

rack-rent shall not have been so ascertained, shall be made, and he shall make his estimate of all other property in a sum bearing the same proportion, as near as the same can be computed, to the amount of such first estimates, as the sums at which all such other properties of which the rent has been so ascertained are valued at in such rate bear to the sum charged in the said rate on the said properties first estimated; and he shall apportion the sum so estimated on such other properties in the same proportion, as near as the same can be computed, as they are respectively rated at in such rate, and shall make his assessment under this Act accordingly; and in cases where the same rule of proportion shall not have been observed in rating different kinds of property, then the assessor shall make an estimate as above directed upon each of such kinds of property for the purpose of forming a basis on which the estimates of other properties of the same kind may be made.

5 & 6 Vict. c. 35, s. 65. Assessor allowed to estimate dwelling-houses, &c. under 10*l.* without a return.

65. Provided always, that where any dwelling-house or tenement, together with the offices, gardens, and lands occupied therewith, or any lands separately occupied, shall be under the annual value of ten pounds, and the assessor shall be able to estimate the said value, either by the rules before mentioned, or from his own knowledge, or otherwise, it shall be lawful for him to estimate such property accordingly, to the best of his judgment, and to make an assessment thereon, without requiring a return of the annual value as aforesaid, unless the surveyor or inspector shall object to such estimate, and shall require a notice for that purpose to be delivered; and if any assessor, not having given such notice, shall neglect to estimate the true annual value of the said properties, and to assess the same according to this Act, he shall forfeit any sum not exceeding ten pounds.

5 & 6 Vict. c. 35, s. 66. Assessors may make their assessments of lands on the production of the lease by the tenant, according to the reserved rent.

66. In case any tenant at rack-rent shall produce to the assessor the lease or agreement in writing under which he immediately holds any premises to be charged as aforesaid according to the general rule, the production of which lease or agreement every such assessor is hereby authorized to demand whenever the same shall appear to him necessary; and in case it shall appear by such lease or agreement that the same premises shall have been let within the period of seven preceding years, and no other consideration in money than the rent reserved shall be contained in such lease or agreement, it shall be lawful for such assessor to make his assessment according to such rent, anything before contained to the contrary notwithstanding; but such assessment shall not be binding,

If such lease

in case it shall appear to the Commissioners that the said lease or agreement doth not express the full consideration, whether in money or value, for the demise or the rent *bonâ fide* paid for the same, or that the rent reserved is less than the rack-rent on occasion of repairs or improvements done or to be done by the lessee or assigns, or is made in any other respect with intent to conceal the annual value of such premises, or to diminish the estimate to be made thereon, or hath been assigned to such tenant, or any former tenant, for any consideration in money or value paid or agreed to be paid: Provided always, that regard shall be had to the cases before mentioned, where the amount of the reserved rent shall be increased by reason of any covenant or agreement by the landlord to discharge the tenant's taxes, rates, assessments, or duties before mentioned, or where the same shall be decreased by reason of any covenant or agreement by the tenant to discharge the landlord's taxes, rates, or assessments, or on occasion of any expenses incurred or to be incurred by the lessee or assigns, whether mentioned or not mentioned in such lease or agreement, and to the deductions to be made on account of any aid or public rate or assessment before described: Provided also, that upon every demise for years of lands made or to be made in consideration of a rent reserved, and also in consideration of certain improvements to be made in the lands demised at the proper cost and charge of the lessee or tenant, if it shall be proved to the satisfaction of the Commissioners for General Purposes acting for the division where such lands are situate that the rent reserved hath been settled on the estimate of the medium annual value of the said lands, computed on an average for the whole term granted in expectation of the progressive improvement of the said farm at the cost and charge of the said lessee or tenant, and the said annual rent is fixed and made payable to the same amount in each year on the said average, whereby the said rent so estimated and made payable did or doth exceed the just annual value of the said lands as the same were or are worth to be let at rack-rent at the commencement of the term granted by the said demise, then and in such case the estimate of the annual value of the said lands, and the assessment thereupon, shall be made and computed according to the following rules; (that is to say,) in regard that the rent reserved hath been settled on a fair average of the annual value of the said lands, computed on the whole of the term so granted, the said Commissioners, on due proof of the circumstances before mentioned, shall cause the said duty payable in respect of the property in the said lands to be computed and charged on the amount of the rent so reserved and made payable as aforesaid, for

shall be *bonâ fide* at rack-rent.

Rules to be observed in assessing land at reserved rent and for improvement.

each year of assessment, without variation, during the said term subject nevertheless to such deductions as by this Act are allowed; and the said Commissioners shall also cause the said duty payable in respect of the occupation of the said lands to be computed and charged on the full and just value of the said lands to be ascertained at the times and in manner hereinafter mentioned; (that is to say,) on all such demises made before the passing of this Act, the annual value of the said lands shall be the rack-rent at which the same are worth to be let by the year, to be ascertained at the commencement of the first year of assessment after the passing of this Act, by a valuation to be made thereof under the powers and according to the directions herein contained, and to the satisfaction of the said Commissioners, which valuation shall be in force for the term limited for the continuance of this Act, if the said demise shall not sooner expire; and the amount ascertained by such valuation shall be deemed to be the rack-rent at which the said lands are worth to be let for the said term, if the said demise shall not sooner expire, and the assessment thereupon shall in each year of the said term be made on the said valuation; and on all such demises to be made after the passing of this Act the annual value of the said lands shall be the rack-rent at which the same are worth to be let by the year, to be ascertained at the commencement of the said demise, by a like valuation to be made thereof in manner aforesaid.

When there is no contract to repair, a yearly tenant is bound to keep the premises wind and watertight, and a tenant for years is liable for permissive waste (see Woodfall's Landlord and Tenant, 17th ed. p. 669); and therefore when there is a contract to do repairs in a lease, but otherwise the rent is the full consideration for the lease, the rack-rent for a yearly tenant is the rent reserved plus the difference between the cost of repairing the premises according to the contract and the cost of keeping them wind and watertight; and the rack-rent for a tenant for years is the rent reserved plus the difference between the cost of repairing the premises according to the contract and the cost incurred in preventing permissive waste. We must, however, remember that when there is a contract to repair we are driven back to the general rule in Schedule (A.), No. I. to find the annual value. The annual value is by the general rule the rack-rent at which the same are worth to be let by the year. Thus, the annual value is not the rack-rent on a term of years as above obtained, but the rack-rent at which the premises can be let for a year as they stand. There is now an allowance for the repairs under Schedule (A.) in the case of houses and buildings except a farmhouse or building included with lands. See the Finance Act, 1894, s. 35, *ante*, p. 153.

5 & 6 Vict. c. 35, s. 67. Tenants at rack-rent under a parol demise, or not able to procure leases, to deliver an

67. In case any tenant at rack-rent under any parol demise from year to year, within the period mentioned in the said general rule, or any tenant who, by reason of any mortgage or other contract, shall not have the custody or possession of or the power over any lease or agreement in writing under which he holds the premises demised within the said period, and who shall give

reasonable proof to the Commissioners why he is unable to produce the same, shall deliver to the assessor an account in writing signed by such tenant of the actual amount of the annual rent reserved on such demise, such account so delivered shall be deemed a compliance with this Act, in all cases where he may be called upon under the authority of this Act to produce such lease or agreement; and it shall be lawful for such assessor to make his assessment according to such rent, anything before contained to the contrary notwithstanding; but such assessment shall not be binding in case it shall appear to the said Commissioners that the said account doth not express the full consideration for such demise, or the rent *bonâ fide* paid for the same, or that the rent reserved is less than the rack-rent on occasion of any payments as aforesaid made or to be made by such tenant, or is made in any other respect with intent to conceal the annual value of the premises held under such demise, or to diminish the assessment to be made thereon: Provided always, that lands held for a longer period than seven years by any tenant under a demise from year to year, or at will, shall be estimated and assessed at the annual value thereof, unless the tenant shall show and prove to the satisfaction of the said Commissioners that the same lands are held under a demise which commenced by agreement made and a rent fixed within the period of seven years, on the determination of the former demise thereof, by due notice within the said period.

account of the value.

Lands held under a tenancy from year to year, or at will, to be rated by value, unless the rent be fixed on a demise within seven years.

68. Every person who shall wilfully deliver any such account as aforesaid which shall be false, or who shall wilfully refuse, neglect, or omit to produce any lease or agreement with intent to conceal the annual value of the premises therein comprised, or to diminish the estimate to be made thereon, shall forfeit the sum of twenty pounds, and shall be liable to be charged in treble the duty hereby directed to be charged as aforesaid, computed on the annual value of the premises held under such demise estimated according to this Act; and the inspector and surveyor are hereby respectively required to surcharge the same, and the Commissioners are required to make an assessment accordingly.

5 & 6 Vict. c. 35, s. 68.

Penalty on tenants delivering false accounts of the value of the premises, or concealing the true value thereof.

69. Every tenant of lands, tenements or heritages in Scotland shall, within ten days after the assessor shall have left at his usual place of abode, or at any dwelling house or other place on the premises to be charged with the assessment, a note in writing requiring the same, produce to such assessor the tack or lease or other agreement or articles in writing under which such tenant holds such lands or tenements, or where the same shall

5 & 6 Vict. c. 35, s. 69.

Tenants in Scotland to produce their leases on notice;

not be in the power, custody, or possession of such tenant, or there shall be no such tack, lease, or agreement or articles, then he shall leave with such assessor, or at his dwelling house, within the time before mentioned, a note in writing of the actual rent annually reserved and payable, and of any other valuable consideration given or to be given to the landlord of such lands and tenements as a further consideration for such tenancy, under the penalty of treble the duty hereby chargeable thereon, in case of any wilful neglect to comply with such notice; and it shall be lawful for such assessor to make his assessment on the production of such lease or agreement or articles, according to the rent therein reserved and made payable; and in case of non-production of such lease or agreement or articles in writing, then upon the rent reserved or made payable, according to the account thereof delivered as aforesaid, if he shall be satisfied that the said lands, tenements, or heritages have been *bonâ fide* let at the reserved rent notified to him as aforesaid, without other valuable consideration; but in case such assessor shall not be satisfied with the notification given to him, or in case no such notification shall be given, then such assessor shall make the assessment as directed in the foregoing rules: Provided always, that if the farm occupied by such tenant shall be distant more than ten miles from the dwelling house of such assessor it shall be competent to such tenant to lodge his lease or note in writing of the rent with the nearest justice of the peace, or with the clergyman of the parish where the farm is situated; and the said justice of the peace or clergyman respectively shall be obliged to show the said lease or note of the rent to the said assessor when required.

or leave them with a justice of peace, or clergyman in a certain case.

5 & 6 Vict. c. 35, s. 70.

70. The said several duties shall be assessed on all lands, tenements, and hereditaments, whether occupied at the time of assessment or not; and so far as respects the duties chargeable under (Schedule (A.), in case any lands charged to the said duties shall be unoccupied, and no distress can be found on the same at the time such duties shall be payable, it shall be lawful for the collector of the parish or place where the said lands are situate for the time being, at any time after, to enter upon the said lands when there shall be any distress thereupon to be found, and the distress to seize and sell, under the like powers as he might have distrained on the same lands if in the occupation of such person at the time the duties became due; Provided always, that the said duties, or either of them, shall not be levied on any house which shall be or become unoccupied for such year, or portion of the year, as the same shall be unoccupied, but the assessment thereupon for such year, or

All properties to be assessed whether occupied or not.

Assessments on houses to be discharged for the period they are unoccupied.

portion of the year, as aforesaid, shall, upon appeal, be discharged or diminished by the Commissioners, on due proof of the time during which such house remained unoccupied.

For an example of procedure under this section see *Reading* v. *Chew*. The powers of the collector under this section are modified by sect. 35 of 16 & 17 Vict. c. 34, *ante*, p. 150, which prevents a taxgatherer who has neglected his opportunity with a former occupier from availing himself of it.

1898, *Reading* v. *Chew*, 14 T. L. R. 468.
16 & 17 Vict. c. 34, s. 35.

71. Where by any assessment the duties shall be charged on tithes or teinds, and the same shall not be paid within the respective times limited by this Act, it shall be lawful for the collector and officer respectively to distrain upon such tithes or teinds, or any other goods or chattels of the owner of such tithes or teinds, wherever the same can be found, and to seize, take, and sell so much thereof as shall be sufficient for levying the said assessment, under and subject to the like powers granted by the said Acts relating to the duties of assessed taxes in other cases.

5 & 6 Vict. c. 35, s. 71. Mode of levying the duties charged on tithes.

72. When any assessment shall be charged on any composition for tithes or teinds, or any rent or payment in lieu thereof, the occupier of the lands and premises charged with such composition, rent, or payment shall be answerable for the duties so charged, and may deduct the same out of the next payment on account thereof; and where any assessment shall be charged on the profits of manors or royalties, or of markets or fairs, or on tolls, fisheries, or any other annual or casual profits not distrainable, the owner or occupier, or the receiver of the profits thereof, shall be answerable for the duties charged thereon, and may retain and deduct the same out of such profits; and in every such case the collector shall distrain upon such persons respectively by any of the ways and means prescribed by the said Acts relating to the duties of assessed taxes.

5 & 6 Vict. c. 35, s. 72. Mode of levying the duties on compositions for tithes, or on manors or royalties, markets, fairs, tolls, fisheries, &c.

73. Provided always, that no contract, covenant, or agreement between landlord and tenant, or any other persons, touching the payment of taxes and assessments to be charged on their respective premises, shall be deemed or construed to extend to the duties charged thereon under this Act nor to be binding contrary to the intent and meaning of this Act; but that all such duties shall be charged upon and paid by the respective occupiers, subject to such deductions and repayments as are by this Act authorized and allowed; and all such deductions and repayments shall be made and allowed accordingly, notwithstanding such contracts, covenants, or agreements.

5 & 6 Vict. c. 35, s. 73. Contracts between landlords and tenants or other persons not to be binding contrary to this Act.

1858. *Att.-Gen.* v. *Shield*, 3 H. & N. 834; 28 L. J. Ex. 49.

By a marriage settlement certain lands were conveyed subject to "an annuity or clear yearly sum of 100*l.*, freed and clear, and without any

deduction or abatement whatsoever in respect of any taxes or impositions then already or which should thereafter be taxed, charged, assessed or imposed upon the said premises, or upon the said annuity by authority of Parliament or otherwise howsoever."

Held, that the parties paying the annuity were entitled to deduct income tax under 5 & 6 Vict. c. 35, ss. 73, 103.

The section does not make an agreement void which provides for a reduction of rent if the income tax be abolished and an increase of rent if the tax be again imposed.

1862, *Colbron* v. *Travers*, 12 C. B. N. S. 1881; 31 L. J. C. P. 257.

"Every landlord is entitled to get as much rent as he can for his house; and, if he does not stipulate that his tenant shall be charged with the payment of a tax which the law intended to impose upon the landlord, but merely provides for an increase of his rent as such in the event of a certain tax coming upon him, he is doing something for which the Act of Parliament has not provided." Willes, J., in *Colbron* v. *Travers*.

1862. *Colbron* v. *Travers*, 12 C. B. N. S. 181; 31 L. J. C. P. 257; 8 Jur. (N. S.) 1105; 6 L. T. 287; 10 W. R. 603.

A., in 1807 (when 46 Geo. 3, c. 65, was in force), leased premises to B. at a rent of 340*l.*, with a proviso that the rent should be reduced to 330*l.* in the event of the income tax becoming repealed, annihilated or suspended at any time during the continuance of the demise; such reduced rent to continue to be paid only so long as the income tax should remain repealed and not payable.

Held, that the rent, which had so become reduced on the expiration of the old income tax, was restored to the original amount on the passing of the new Act, 5 & 6 Vict. c. 35, and there was nothing in sect. 73 to render the covenant illegal.

See also *R.* v. *Sheil*, 1 F. & F. 204.

5 & 6 Vict. c. 35, s. 74. Assessors to make their assessments, and deliver them with the returns to the Commissioners.

74. The respective assessors shall make their assessments on all lands, tenements, and hereditaments, or heritages, within the limits of those places for which they are to act, and shall set down therein the full and just annual value of all such lands and premises estimated in each particular case according to the directions of this Act, together with the names and surnames of the occupiers and proprietors thereof, and shall deliver the same, together with all returns which shall have been made to them, as well of such annual value as of any deduction claimed to be made therefrom, to the said Commissioners for General Purposes, such returns being first progressively numbered; and whenever the said assessors shall not be able to make their assessments according to the provisions of this Act, or shall be obstructed therein, it shall be lawful for them to make application to the said Commissioners, or to any inspector or surveyor, who shall severally instruct such assessor in making his assessments, and assist him in the execution of this Act, according to the powers and authorities hereby vested in them respectively.

Assessors to apply to Commissioners and surveyors for instructions.

As to the delivery of assessments and returns to the General Commissioners, see the Taxes Management Act, 1880, s. 49, p. 68.

43 & 44 Vict. c. 19, s. 49.

5 & 6 Vict. c. 35, s. 75. Assessors,

75. The assessors to be appointed for the said duties in England shall, at the time of bringing in their assessments if required so

to do by any surveyor or inspector of the said duties, or by the respective Commissioners, give notice to the overseers of the poor of the parish or place where they shall act, to produce or cause to be produced to the said Commissioners the book or books, or a true copy thereof, in which shall have been entered the rates made for the relief of the poor of such parish or place, and also a true copy of the last rate made for the relief of the poor in such parish or place, and such overseers shall without fail produce such book or books to the said Commissioners, or deliver the same to the said inspector or surveyor, for their use, and the said assessors shall declare in writing, signed by them, whether the said rates are made on the full value of the properties therein, or on any and what proportionate part thereof, to the best of their knowledge and belief; and the said Commissioners shall, in case the said surveyor or inspector shall allege and show to the satisfaction of the said Commissioners that the said assessments or any of them have not been made according to the directions of this Act, examine the said assessors, and also the overseers of the poor for the same parish or place, or any of them, being duly summoned for that purpose, on their oaths, touching the proportions between the said rates and the value of the properties charged therein, and whether the properties or any and which of them, have been valued therein at the amount or at any and what proportion of the annual value thereof respectively, and what ought to be the just proportion between the rates on the different properties therein charged, if the amount of the values thereof, and the same proportion between the rates, had been observed throughout the rate, and also what property shall have been omitted to be rated, and which of the properties in the parish or place shall be entitled to be assessed on the profits or on an average of the profits according to this Act; and the said inspector or surveyor shall carefully examine the assessments made by the same assessors with the last rate made for the relief of the poor, in order that he may the better ascertain whether the said assessments have been made on all the properties situate in each parish, and according to the directions prescribed by this Act, and from the result of the said inquiries may rectify the same in any particulars which in his judgment may be requisite before the Commissioners allow and sign such assessment as herein directed; and in so doing may pursue, if he thinks fit, the Rules in Number XI. of this Act before mentioned, relating to the said rates for relief of the poor.

on bringing in their assessments, shall if required give notice to overseers of the poor to produce the rate books.

Commissioners may examine assessors and overseers touching the making of the assessments.

Inspector or surveyor may rectify assessments if not duly made.

As to the examination and amendment of assessments by the surveyor, see the Taxes Management Act, 1880, ss. 51 and 52, p. 70.

43 & 44 Vict. c. 19, ss. 51, 52.

5 & 6 Vict. c. 35, s. 76. Commissioners and officers may inspect public rate books, and take copies or extracts.

76. The several Commissioners, inspectors, surveyors, and assessors acting respectively in the execution of this Act, or any person authorized by them respectively, shall have liberty, from time to time and at all seasonable times, to inspect and take copies of or extracts from any book kept by any parish officer or other person of or concerning the rates made for the relief of the poor, or any other public taxes, rates, or assessments, in any place within the limits for which they shall be appointed, without the payment of any fee whatever; and if any person in whose custody or power any of the said books shall be shall refuse or neglect to permit the said inspection, or the copies or extracts to be made as aforesaid, or to attend the said Commissioners with any such book when required so to do in pursuance of this Act, such person so offending shall forfeit any sum not exceeding twenty pounds nor less than five pounds.

Penalty for refusal to permit such inspection.

43 & 44 Vict. c. 19, s. 39.

As to the power to inspect parish books, see the Taxes Management Act, 1880, s. 39, p. 53.

5 & 6 Vict. c. 35, s. 77. Assessors in Scotland to be assisted by the schoolmasters, and to be examined concerning their assessments.

77. It shall be lawful for the assessors in each parish or place in Scotland, and they are hereby required, to take to their assistance the schoolmaster in such parish or place, for the purpose of making such assessments of the lands and other premises within their respective limits; and at the time of bringing in their assessments they shall make oath of the truth of the same, and that such assessments are made according to the best of their skill and judgment, and shall submit to be examined on oath before the said Commissioners in all matters and things concerning the said assessments which the said Commissioners shall require for their information.

5 & 6 Vict. c. 35, s. 78. Assessors and other officers to view and survey lands by order of the Commissioners.

78. In cases where the occupier or other person chargeable shall, upon due notice under this Act, omit to produce an account in writing as aforesaid of the amount of the annual value of the property in his occupation, estimated according to the General Rule in Schedule (A.), or such other Rules in the said Schedule as are applicable to such property, or shall have delivered an account with which the Commissioners shall be dissatisfied, the several assessors, inspectors, and surveyors, having first obtained an order in that behalf, signed by the said Commissioners, and taking to their assistance such person or persons of skill as shall be named in such order, shall, after two days' notice to the occupier, have full power, at all seasonable times in the daytime, to view and examine any lands or other property chargeable, in

order to make a survey thereof, or otherwise to ascertain the annual value at which the same ought to be charged by virtue of this Act, and for so doing shall have liberty to enter upon any lands or grounds, whether inclosed or not, and to value the same, and to measure and survey the same if they cannot otherwise ascertain the annual value thereof.

5 & 6 Vict. c. 35, s. 79.

Commissioners to allow and sign assessments not objected to and made to their satisfaction.

79. Within a reasonable time after the respective surveyors and inspectors shall have had the examination of the assessments delivered by the assessors, the Commissioners shall proceed to take the same into consideration, and in case the surveyor or inspector shall not have objected thereto, and the said Commissioners shall be satisfied that the said assessments have been made truly and without fraud, and so as to charge the several properties contained therein with the full duty which ought to be charged upon them respectively, the said Commissioners shall allow and sign such assessments: Provided always, that in case the surveyor or inspector shall object to any such assessment, and shall apply for a revision thereof, suggesting in writing to the Commissioners any error, mistake or fraud in making the same, it shall be lawful for the said Commissioners, according to the best of their judgment, to rectify such assessment, so that the duty may be fully charged according to the intent and meaning of this Act.

On objection taken, the Commissioners may rectify assessments.

This section is repeated in the Taxes Management Act, 1880, s. 56: see p. 72.

43 & 44 Vict. c. 19, s. 56.

5 & 6 Vict. c. 35, s. 80.

Amount of assessments and day of appeal to be notified.

80. So soon as the assessments for any parish or place under Schedules (A.) and (B.) shall be allowed and signed as aforesaid the Commissioners shall cause notice thereof and of the day for hearing appeals therefrom to be given in such manner as they shall judge expedient, which notice may be given either by delivering a copy of such assessment to the assessor of such parish or place, for the inspection of the parties charged thereby, together with a public notice of the day of appeal, to be affixed on or near to the church door, or on any other public place in the parish, or by delivering to each party charged the amount of his assessment, together with a note of the day of appeal, and such notices shall be made and given at least fourteen days before the day of appeal so fixed.

This section is confirmed by the Taxes Management Act, 1880, s. 57: see p. 75.

43 & 44 Vict. c. 19, s. 57.

59 & 60 Vict. c. 28. Appeal by owner of land from assessment to income-tax, under Schedule (A.).

The Finance Act, 1896—

28. Any owner or other person in receipt of the rent of any lands, although not the occupier thereof, who is aggrieved by the amount of the annual value of the lands, as ascertained for the purpose of the assessment made thereon under Schedule A. in the Income Tax Act, 1853, shall have the same right of appeal to the General Commissioners of Income Tax as if the assessment were made upon him, and section 57 of the Taxes Management Act, 1880, shall apply accordingly.

5 & 6 Vict. c. 35, s. 81. The value of lands may be ascertained by actual valuation by order of the Commissioners.

The Income Tax Act, 1842—

81. If upon appeal any dispute shall arise touching the annual value of any lands, tenements, hereditaments, or heritages, and the Commissioners shall deem it necessary that a valuation thereof should be taken and made by any person of skill, it shall be lawful for them to direct the appellant to cause such valuation to be made by any person to be named by the said Commissioners, the costs and charges whereof shall abide the final determination of the said Commissioners, and it shall be lawful for them to make an assessment according to such valuation, and to require the same to be verified on the oath of the person making the same; but in case the appellant shall not proceed with effect to cause such valuation to be made as aforesaid, the said Commissioners shall make an assessment according to the best of their judgment: Provided always, that it shall be competent to the said Commissioners, in every such case where the valuation so made shall exceed the value put upon the same lands, tenements, hereditaments, or heritages by the appellant, to direct the costs and charges attending the same to be paid by him; but if they shall be of opinion that such costs and charges have not been incurred through any default of the said appellant, they shall direct the same to be paid by the collector of the parish or place, who, on the certificate of the Commissioners present at the time of the determination, shall pay the same, and the sum so paid shall be allowed to such collector in his accounts with the proper officer for receipt, on delivering to him such certificate, together with the receipt and voucher for such payment.

By whom the costs of such valuation are to be paid.

16 & 17 Vict. c. 34, s. 47. Appellants may require Commissioners to appoint a

The Income Tax Act, 1853—

47. Whereas by the eighty-first section of the said Act of the fifth and sixth years of her Majesty, chapter thirty-five, if upon appeal any dispute shall arise touching the annual value of any lands, tenements, or hereditaments, the Commissioners are autho-

rized, if they deem it necessary, to direct that a valuation thereof shall be taken and made by a person of skill to be named by the said Commissioners: It shall be lawful for the appellant, as well as the said Commissioners, upon any such appeal, to require that such valuation as aforesaid shall be made, and the said Commissioners, on being required so to do by the appellant, as well as in cases where they may deem it necessary, shall name a person of skill to make such valuation; and upon such valuation being verified on the oath of the person making the same the assessment shall be made according thereto.

valuer to value lands.

The Income Tax Act, 1842—

5 & 6 Vict. c. 35, s. 82.

82. Provided always, that if on appeal the occupier of any premises held under a demise at rack-rent shall produce and show to the Commissioners the lease, tack, or agreement in writing, or shall prove by any lawful evidence to be produced on his part, in case there shall be no such lease, tack, or agreement in writing, the annual amount of the rent at which such premises are let, it shall be lawful for the said Commissioners, in case such rent hath been fixed by agreement commencing within the period of seven years mentioned in the said general rule, and they shall be satisfied that such lease, tack, or agreement doth express the full consideration for the demise under which such occupier shall hold the same, or that the rent *bonâ fide* paid by such occupier for the same hath been duly shown to them in evidence, and that such demise is made wholly in consideration of such reserved rent, without any intention to conceal or diminish the annual value of such premises, or other fraudulent intention whatever, to abate and deduct from such assessment so much as in their judgment will reduce the rate to a just rate on such rent: Provided always, that if it shall appear to the said Commissioners that any lands, tenements, hereditaments, or heritages, shall have been assessed at an annual value less than the actual rent at which the same shall be let, or (if not let) at less than the rent at which the same might be let, it shall be lawful for the said Commissioners to enlarge and increase such assessment to such sum as a like rate on such rent would amount unto, as well with respect to the rate on the property as the rate on the occupation of such lands, tenements, hereditaments, or heritages.

In case of appeal, occupier showing lease, or, if no lease, proving his annual rent, the Commissioners may reduce the rate.

Where lands are assessed at less than the value, the assessment may be rectified.

The Income Tax Act, 1860—

23 & 24 Vict. c. 14, s. 7.

7. It shall be lawful for any person assessed to the duty chargeable under Schedule (A.) of the said Act in respect of any mine of

Power for persons

assessed for mines or quarries to appeal to the Special Commissioners.

coal, tin, lead, copper, mundic, or iron, or any quarry of stone or slate, to appeal against any such assessment to the Commissioners for Special Purposes, instead of the Commissioners for General Purposes, if he shall think fit, and give due notice of his intention so to do, and thereupon such appeal shall be heard and determined by two or more of the Commissioners for Special Purposes in like manner as any appeal against an assessment of the duties contained in Schedule (D.) of the said Acts may lawfully be heard and determined by them;

And all powers and authorities, rules and regulations, contained in the said Acts in relation to any such last-mentioned assessment and appeal, and to the carrying into execution and enforcing the determination of the said Commissioners for Special Purposes therein, shall be exercised and put into force in relation to any appeal by this Act authorized to be made to the said last-mentioned Commissioners and their determination thereon.

Abatements.

5 & 6 Vict. c. 35, s. 83. Relief to be granted to occupiers and owners for losses caused by flood or tempest.

The Income Tax Act, 1842—

83. Whenever by any flood or tempest loss shall be sustained on the growing crops, or on the stock on lands demised to a tenant at a reserved rent, without fine or other sum paid, given, or contracted for in lieu of a reserved rent, or any part thereof, or the said lands, or any part thereof, shall by such flood or tempest be rendered incapable of cultivation for any year, and it shall be proved on oath to the satisfaction of the Commissioners for General Purposes acting for the division where the said lands are situate that the owner of the said lands hath in consideration of such loss abated or agreed to abate to his tenant the whole or any proportion of the rent reserved or payable by such tenant for any year of such demise, it shall be lawful for the said Commissioners to abate in the assessment made in respect of the property in the said lands for the same year for which such rent hath been abated, and to discharge therefrom the whole or the like proportion of duty as the said owner shall appear on such proof as aforesaid to have abated of or from the rent reserved and made payable to him on such demise; and it shall also be lawful for the said Commissioners in every such case to abate in the assessment made in respect of the occupation of the said lands for the same year and to discharge therefrom the like proportion of duty as shall have been abated or discharged from the assessment made in respect of the property on the said lands for the cause aforesaid.

84. Whenever from the cause aforesaid the like loss shall be sustained on the lands of any infant, idiot, lunatic, or other proprietor incapable of consenting to any abatement in the rent as aforesaid, being in the occupation of any such tenant as aforesaid, and the same shall be proved on oath before the said Commissioners to their satisfaction, it shall be lawful for them to abate in the assessment made in respect of the occupation of the said lands, and to discharge the whole or any part of the said duty, and in proportion to the loss so sustained, and to the amount which the said Commissioners shall be of opinion would or ought to have been abated as aforesaid if the said lands had belonged to a proprietor of full age and of sound mind, and capable of such consent as aforesaid.

5 & 6 Vict. c. 35, s. 84. The like relief extended to occupiers and owners where the owners are incapable of consenting to abatement of rent.

85. Whenever from the cause aforesaid the like loss shall be sustained on lands in the occupation of the owner, and the same shall be proved on oath before the said Commissioners to their satisfaction, it shall be lawful for them to abate in the several assessments made in respect of the property in or occupation of the said lands, and to discharge the whole or any part of the said respective duties, and in proportion to the loss so sustained, and to the amount which the said Commissioners shall be of opinion would or ought to have been abated as aforesaid if the said lands had been demised to a tenant, and a proportionate abatement had been made to such tenant under the circumstances of the said loss.

5 & 6 Vict. c. 35, s. 85. Abatement of assessment in case of losses on lands in the occupation of owners.

86. If any person shall be guilty of making any false claim for such abatement as aforesaid, or shall be guilty of any fraud or contrivance in making such claim, or in obtaining any such abatement, or shall fraudulently or untruly declare the amount or value of such loss, or the amount or value of any abatement made or agreed to be made in the rent of the lands in his occupation, on account of such loss, with intent fraudulently to obtain any such abatement, he shall forfeit the sum of fifty pounds and treble the amount of duty charged on him in respect of the said lands; and if the owner of any such lands, or any other person whatever, shall aid, abet, or assist any person charged to the said duties in making such false or fraudulent claim, or shall fraudulently or untruly declare the amount or value of any abatement made or agreed to be made in the rent of the said lands or the amount of such loss, with intent fraudulently to obtain for himself, or for his tenant, or for the owner or tenant of the said lands, any such abatement

5 & 6 Vict. c. 35, s. 86. Penalty for making false claim for such abatement.

as aforesaid, every such owner or other person aforesaid shall forfeit the sum of one hundred pounds.

59 & 60 Vict. c. 28. Annual value for the purpose of exemption or abatement from income-tax under Schedule (B.).

The Finance Act, 1896—

27. For the purposes of any claim to exemption, relief, or abatement from income tax, the income arising from the occupation of lands, tenements, hereditaments, and heritages chargeable under Schedule (B.) in the Income Tax Act, 1853, shall be taken to be one-third of the annual value thereof under that Schedule, except that if any person occupying, either as owner or otherwise, any lands for the purpose of husbandry only shows at the end of any year, to the satisfaction of the General Commissioners of Income Tax, that his profits and gains arising from the occupation of such lands during the year fell short of one-third of the said annual value thereof, the income arising from the occupation shall be taken at the actual amount of such profits and gains, and if the whole of the income tax has been paid, the amount overpaid shall be certified and repaid in manner provided by section one hundred and thirty-three of the Income Tax Act, 1842.

53 & 54 Vict. c. 8, s. 23. Relief to trading or professional persons and farmers in case of loss.

The Customs and Inland Revenue Act, 1890—

23.—(1.) Where any person shall sustain a loss in any trade, manufacture, adventure, or concern, or profession, employment, or vocation carried on by him either solely or in partnership, or in the occupation of lands for the purpose of husbandry alone, it shall be lawful for him, upon giving notice in writing to the surveyor of taxes for the district within six months after the year of assessment, to apply to the Commissioners for the general purposes of the Acts relating to income tax for an adjustment of his liability by reference to the loss and to the aggregate amount of his income for that year estimated according to the several rules and directions of the said Acts.

(2.) The said Commissioners shall, on proof to their satisfaction of the amount of the loss, and of the payment of income tax upon the aggregate amount of income, give a certificate authorizing repayment of so much of the sum paid for income tax as would represent the tax upon income equal to the amount of loss, and such certificate may extend to give exemption or relief by way of abatement in accordance with the provisions of the said Acts. Upon the receipt of the certificate the Commissioners of Inland Revenue shall cause repayment to be made in conformity therewith.

(3.) If any person shall be guilty of any fraud or contrivance in making any application under this section, or in obtaining any such adjustment or certificate as aforesaid, he shall forfeit the sum of fifty pounds, to be recoverable as a penalty imposed by virtue of the Taxes Management Act, 1880.

(4.) Where repayment has been made to a person in any year under the provisions of this section, he shall not be entitled to claim, or be allowed, a deduction on the assessment for a subsequent year by reference to the amount of loss in respect whereof such repayment has been obtained.

1901. *Bruce* v. *Burton*, 4 Tax Cas. 399; 85 L. T. 227.

Applications for relief under the Finance Act, 1896 (16 & 17 Vict. c. 34), s. 27, and the Customs and Inland Revenue Act, 1890 (53 & 54 Vict. c. 8), s. 23, are not appeals, and the Commissioners have no power to state a case under sect. 59 of the Taxes Management Act, 1880 (43 & 44 Vict. c. 19).

The Finance Act, 1907—

7 Edw. 7, c. 13, s. 27. Power of Commissioners for special purposes to allow relief under sect. 23 of 53 & 54 Vict. c. 8.

27. Any application for relief under section twenty-three of the Customs and Inland Revenue Act, 1890, may be made either to the Commissioners for the general purposes of the Acts relating to income tax as provided in that section or to the Commissioners for the special purposes of those Acts, and the last-named Commissioners shall have the same power under that section as the first-named Commissioners have.

Procedure.

The Income Tax Act, 1842—

5 & 6 Vict. c. 35, s. 87. First assessment under Schedules (A.) and (B.) to remain in force for three years;

87. The first assessment to be made after the fifth day of April one thousand eight hundred and forty-two, of the duties chargeable under either of the Schedules marked (A.) or (B.) of this Act, shall be and remain in force for the space of three years, without requiring returns from the parties charged therein for the second or third year of such assessment, and without altering the names of the parties charged, notwithstanding a change in the occupation or interest of or in the premises charged in such assessment may have happened; and the like sums shall be levied thereon for the second and third years respectively as shall or ought to have been levied thereon for the first year, and the assessment shall be subject to the like exemptions and allowances for the second and third years respectively as were granted for the first year; and the amount charged in such assessment shall be paid by four instalments in each year, on the days and times herein

specified (*a*) for payment of such instalments, subject, nevertheless, to be varied and altered in the following cases; (*videlicet*) :—

unless the party be under-rated or omitted, or have obtained an exemption to which he is not entitled;

First.—If the inspector or surveyor shall find or discover that any person hath been under-rated in such assessment or omitted to be charged therein for the first year, or hath obtained an exemption or allowance for the first year which ought not to be allowed for the second or third year, it shall be lawful for such inspector or surveyor to surcharge such assessment for the second or third year in like manner in all respects as he is authorized to surcharge the assessment under the like circumstances for the first year of assessment, provided that such surcharge shall be made in the single duty, and no increase shall be made thereon above the rate of duty hereby granted, unless the Commissioners shall be of opinion that the assessment for the first year was, in the particular surcharged, deficient through the wilful default or neglect of the party to be charged :

or a person not chargeable in the first year become so subsequently;

Second.—If any person not chargeable in the first year of assessment shall become chargeable in the second or third year it shall be lawful for the assessor, inspector, or surveyor to require the like returns, and to proceed to the assessment of such person in like manner for the second or third year, as if the whole assessment of the parish, place, or district had commenced in that year :

or in case of appeal.

Third.—If any person shall find himself aggrieved by the continuance of such assessment for the second or third year, by occasion of his being over-rated therein, he may appeal from the same in that year on delivering ten days' notice of such his intention to the inspector or surveyor, together with a true and perfect schedule of the annual value of the property charged on him for that year, in like manner as he might have appealed against the same assessment under the like circumstances for the first year, and no payment on such assessment for the first or second year shall be construed to preclude such appeal; provided that for any vexatious appeal without reasonable cause it shall be lawful for the Commissioners to award reasonable costs for the attendance of the inspector, surveyor, or assessor to be added to the assessment and levied therewith for the use of such inspector, surveyor, or assessor, and which shall be paid to them respectively in like manner as any other payments under this Act may be made to them :

Fourth.—It shall be lawful for the respective collectors to levy and gather the assessment for the second and third years respectively on the occupiers for the time being by the same rate or book which shall have been delivered to them for the first year, unless the Commissioners shall revoke the appointment of the said collectors, or shall alter or vary the assessments, and deliver to them a new rate or book for the second or third year: Assessment may be collected in the second and third year by the book delivered for first year.

Fifth.—The duplicates of the Commissioners shall be made for each year, and delivered to the proper officer for receipt, and at the head office of Inland Revenue, containing the like particulars for the second and third years respectively as are herein required for the first year of assessment varying only the amounts therein to be specified if the case shall require the same; and all the powers, regulations, matters, and things contained in this Act for rectifying any assessment, or increasing or diminishing the duty according to circumstances, or for levying the same, shall be in force for the second and third years respectively, in respect of the sums to be levied in those respective years, and shall be applied in those respective years, as fully and effectually as if the assessment had been made for those years respectively under the directions and regulations of this Act. Commissioners' duplicates to be made for each year.

(*a*) This refers to sect. 176, but the part of the section dealing with this subject is now repealed. See p. 453. Quarterly instalments were abolished by 32 & 33 Vict. c. 14, s. 8. The time of payment is now regulated by the Taxes Management Act, 1880, s. 82. See p. 90. 43 & 44 Vict. c. 19, s. 82.

The Income Tax Act, 1842— 5 & 6 Vict. c. 35, s. 88.

88. The duties hereby granted, contained in the Schedule marked (C.), shall be assessed and charged under the following rules, which rules shall be deemed and construed a part of this Act, and to refer to the said last-mentioned duties, as if the same had been inserted under a special enactment. Duties in Schedule (C.) and rules deemed part of this Act.

Schedule (C.).

The Income Tax Act, 1853— 16 & 17 Vict. c. 34, s. 2.

For and in respect of all profits arising from interest, annuities, dividends, and shares of annuities payable to any person, body politic or corporate, company or society, whether corporate or non-corporate, out of any public revenue, and to be charged for every twenty shillings of the annual amount thereof:

5 & 6 Vict. c. 35, s. 88.

The Income Tax Act, 1842—

SCHEDULE (C.).

Rules for assessing and charging the Duties under Schedule (C.).

By whom to be paid.

The said last-mentioned duties shall be paid by the persons and corporations respectively intrusted with the payment of the annuities, dividends, and shares of annuities, therein charged on behalf of the persons, corporations, companies, or societies entitled thereto, their executors, administrators, successors, or assigns, and shall be assessed by the Commissioners hereby authorized or appointed for those purposes (*a*); and shall extend to all public annuities whatever payable in the United Kingdom out of any public revenue in the United Kingdom or elsewhere, and also to all dividends and shares of such annuities respectively which shall become payable after the fifth day of April one thousand eight hundred and forty-two, except in the following cases of exemption from the said duties; viz.:

To what stock the duty extends.

(*a*) The governor and directors of the Bank of England, the Commissioners for the Reduction of the National Debt, the Special Commissioners, &c. See sects. 24 to 29, p. 16.

5 & 6 Vict. c. 35.

Exemptions.

Stock of friendly societies exempted.

First.—The stock, dividends, or interest of any friendly society legally established under any Act of Parliament (*a*) relating to friendly societies; provided it shall appear by the rules of any such society deposited or to be deposited with the Commissioners for the Reduction of the National Debt, or with the trustees of any savings bank, that the sums assured by any such society to any individual, or to any person nominated by or to claim under him, shall not exceed the sum of two hundred pounds, or the amount of any annuity or annuities granted or to be granted by any such society to any individual, or to any person nominated by or to claim under him, shall not exceed the sum of thirty pounds per annum: Provided also, that when any property belonging to any such society shall be invested in the public securities in the Bank of England, the said last-mentioned property shall be duly claimed and proved by any trustee or treasurer of any such society, or by any member thereof, before the said Commissioners for Special Purposes:

38 & 39 Vict. c. 60.

(*a*) The Friendly Societies Act, 1875, and amending Acts.

The Industrial and Provident Societies Act, 1893—

56 & 57 Vict. c. 39, s. 24. Exemption of industrial and provident societies.

24. A registered society shall not be chargeable under Schedules (C.) and (D.) of the Income Tax Acts, unless it sells to persons not members thereof, and the number of shares of the society is limited either by its rules or its practice. But no member of or person employed by the society shall be exempt from any assessment to the said duties to which he would be otherwise liable.

The Income Tax Act, 1842—

5 & 6 Vict. c. 35, s. 88. Stock of savings banks exempted.

Second.—The stock or dividends of any savings bank established or to be established under the provisions of an Act passed in the ninth year of the reign of King George the Fourth, intituled an Act to consolidate and amend the laws relating to savings banks, arising from investments with the Commissioners for the Reduction of the National Debt; and also the dividends or interest payable by the trustees of any savings bank upon any funds therein deposited belonging to any depositor or to any charitable institution.

1889. *R.* v. *Special Commissioners of Income Tax* (*In re Yorkshire Penny Bank*), 2 Tax Cas. 510.

A penny bank receives deposits of any amount from one penny upwards without limit. The bank was originally constituted under the Act 9 Geo. 4, c. 92, and was subsequently incorporated as a company limited by guarantee for the promotion of objects within sect. 23 of the Companies Act, 1867. It claims repayment of the tax deducted from interest on investments, and on hearing that the payment is to be restricted to the duty applicable to the sum paid to depositors whose annual interest does not amount to 3*l*., obtains a rule nisi calling on the Special Commissioners to show cause why the whole duty should not be repaid under sects. 88 and 105. Upon cause being shown the rule nisi is discharged with costs upon the understanding that the Commissioners abide by their offer to grant the relief above mentioned.

The Finance Act, 1894—

57 & 58 Vict. c. 30, s. 36. Exemption of income tax in favour of savings banks. 26 & 27 Vict. c. 87.

36.—(1.) Any penny savings bank, or other bank for savings, whether certified under the Savings Bank Act, 1863, or not, shall be entitled to exemption from income tax chargeable under Schedules (C.) and (D.) of the Acts relating to income tax in respect of the income of the funds of the savings bank, so far as it is applied in the payment or credit of interest to any depositor not exceeding the sum of five pounds in the year for which exemption is claimed.

(2.) The exemption shall be claimed, proved, and allowed in the same manner as is prescribed by law in the case of income applicable and applied to charitable purposes.

(3.) Provided that where interest is paid, or dividends or interest are or is credited without deduction of income tax to a depositor in

any savings bank whose income exceeds one hundred and sixty pounds a year, such interest, or dividends or interest, as the case may be, shall be accounted for and charged under the third case of Schedule (D.) under which profits of an uncertain annual value are directed to be charged.

5 & 6 Vict. c. 35, s. 88.

The Income Tax Act, 1842—

Stock of charitable institutions exempted.

Third.—The stock or dividends of any corporation, fraternity, or society of persons, or of any trust established for charitable purposes only, or which, according to the rules or regulations established by Act of Parliament, charter, decree, deed of trust, or will, shall be applicable by the said corporation, fraternity, or society, or by any trustee, to charitable purposes only, and in so far as the same shall be applied to charitable purposes only (*a*), or the stock or dividends in the names of any trustees applicable solely to the repairs of any cathedral, college, church, or chapel, or any building used solely for the purpose of divine worship, and in so far as the same shall be applied to such purposes, provided the application thereof to such purposes shall be duly proved before the said Commissioners for Special Purposes by any agent or factor on the behalf of any such corporation, fraternity, or society, or by any of the members or trustees.

(*a*) "Charitable purposes," meaning of, see p. 162.

Stock in the name of the Treasury or of the Commissioners for Reduction of the National Debt.

Fourth.—The stock or dividends transferred to the accounts in the books of the Bank of England in the name or under the description of the Treasury, or the Commissioners for the Reduction of the National Debt, in pursuance of any Act or Acts of Parliament: Provided that the Bank of England shall from time to time cause to be transmitted to the said Commissioners for Special Purposes an account of the total amount of stock which shall have been transferred to the said respective accounts, also the payments to be made by the Commissioners for the Reduction of the National Debt on account of the Waterloo subscription funds:

Stock belonging to her Majesty or to accredited ministers.

Fifth.—The stock or dividends belonging to her Majesty, in whatever name the same may stand in the books of the Bank of England, and also the stocks or dividends of any accredited minister of any foreign state resident in the United Kingdom, provided the property thereof shall, if standing in the name of any trustee, be duly proved before the said Commissioners for Special Purposes by such trustee.

There are certain funds of trade unions which are exempt under Schedule (C.). The Act is given under Schedule (A.); see *ante*, p. 159.

Procedure.

89. And for the assessing and charging of the said annuities payable to the Bank of England, at the receipt of the Exchequer as aforesaid, and the profits attached thereto respectively, and also for the assessing and charging of all annuities payable by the Commissioners for Reduction of the National Debt, and the dividends and shares of all other annuities payable out of any public revenue, which are or shall be intrusted for payment to the companies of the Bank of England, be it enacted, that the respective companies, corporations, and Commissioners, having the distribution or payment of the said several annuities, dividends, and shares shall from time to time, as often as the payments thereon shall become due, deliver to the respective Commissioners, appointed for the purpose of assessing the duties thereon as aforesaid, true and faithful accounts, in writing, in books to be provided for that purpose, of the several amounts of such annuities and profits attached to the same, which shall be paid to the said companies respectively, in respect of their corporate stock, and of such dividends and shares of annuities as shall be intrusted to any of such companies, corporations, or Commissioners, for payment to the persons, corporations, and companies entitled thereto, and the amount of duty chargeable thereon at the rate before directed, without deduction on any pretence whatever, except as herein is allowed, distinguishing therein the separate account of each person, corporation, company, and society entitled unto any part, dividend, or share of such annuities respectively, as the same shall stand in the books of the said respective companies, or at the said Exchequer, in such manner as that the part, dividend, and share of each person, corporation, company, and society of or to such annuities respectively may be distinctly charged and assessed to the said duty; and the said respective Commissioners shall from time to time make an assessment of the duty which shall appear to be chargeable on the accounts so delivered to the best of their judgment and belief, and shall from time to time deliver the said books of assessments, signed by them respectively, to the said Commissioners for Special Purposes; and the said Commissioners for Special Purposes shall forthwith cause two certificates on parchment to be made out, under their hands and seals, containing the total amounts of duty, and of the annuities, dividends, and shares whereon the said duty shall have been charged contained in each assessment, together with the proper title or description of the corporation, company, or persons having the distribution or intrusted with the payment of such annuities, dividends, and

5 & 6 Vict. c. 35, s. 89. The Bank of England and the Commissioners of the National Debt to deliver accounts of the annuities payable to and by them respectively to the Commissioners for assessing the same.

shares respectively; and they shall transmit one of such certificates to the respective Commissioners for making such assessments, and the other certificate to the Chief Office of Inland Revenue in England.

5 & 6 Vict. c. 35, s. 93. Companies to set apart and retain sums assessed.

93. The respective corporations, companies, and persons entitled unto such annuities and profits attached thereto, or intrusted with the payment of the annuities, dividends, or shares of such public annuities as are hereinbefore described, shall, on notice of the amount of each assessment, from time to time to be made as aforesaid (which notice shall be given from time to time as and when the annuities, dividends, and shares aforesaid shall become payable, and before payment thereof), set apart and retain the amount of duty so assessed for the purposes of this Act; and every such setting apart and retaining of the said duties shall be deemed a payment thereof by and on the behalf of the persons, corporations, and companies entitled unto the said annuities, dividends, and shares respectively; and all persons, corporations, and companies entitled to such annuities or profits attached thereto or to any part thereof, or to such dividends or shares of annuities as aforesaid, are hereby required, on receipt of the residue of the said annuities, profits, dividends, and shares, over and above the duty so assessed, to allow such payments in respect of the said assessments; and the corporations and persons having the distribution of such annuities, or intrusted with such payments, shall be and are hereby acquitted and discharged of so much money, as if the same had actually been paid unto the persons to whom such annuities, profits, dividends, and shares did or might belong, or were by law payable.

5 & 6 Vict. c. 35, s. 94. Moneys set apart to be paid into the bank.

94. All moneys so set apart at the Bank of England, and by the Commissioners for the Reduction of the National Debt, as before directed, shall be paid from time to time into the account to be kept at the Bank of England with the Receiver General of Inland Revenue as hereinafter directed, accompanied with a certificate of the amount of the assessment under which the same shall be so paid, under the hands of two or more of the Commissioners making such assessment; and the governor and company of the Bank of England shall also cause the amount of such assessment as shall from time to time be charged on the trading profits of the said company to be paid into the said account.

5 & 6 Vict. c. 35, s. 95. How small dividends

95. Provided always, that in respect of any of the annuities, dividends, and shares of annuities chargeable under Schedule (C.) by the respective Commissioners for those purposes, it shall not be

required of them to make an assessment for any amount or payment where the half-yearly payment on such annuities, dividends or shares shall not amount to fifty shillings, but that the annuities, dividends, and shares whereof the half-yearly payment shall not amount to fifty shillings shall be accounted for and charged under the third case of Schedule (D.) by which profits of an uncertain annual value are directed to be charged: Provided also, that no person shall be required to return any statement of the profits of such annuities, dividends, or shares, the half-yearly payment whereof shall amount to fifty shillings or more, and which are hereinbefore directed to be assessed in manner aforesaid, or be liable to any penalty for not returning the same, but all such dividends and shares whereof the half-yearly payment shall not amount to fifty shillings, and which shall be paid without such assessment, shall be duly returned in the manner before directed, under the penalty before contained. shall be charged.

See sects. 52 and 55 of the Income Tax Act, 1842.

The National Debt Act, 1870— 33 & 34 Vict. c. 71, s. 36.

36. Income tax shall be deducted from coupons (*a*) in the same manner and subject to the same regulations in and subject to which it may by law be deducted from dividends payable by the Bank of England or of Ireland in respect of stock of stockholders inscribed in the books of that bank; save only that income tax shall be deducted from a coupon, although the dividend represented thereby does not amount to fifty shillings.

(*a*) This refers only to coupons attached to National Debt certificates.

The Income Tax Act, 1842— 5 & 6 Vict. c. 35, s. 96. Persons intrusted with the payment of colonial annuities shall deliver accounts thereof.

96. Every person (other than the governor and company of the Bank of England, the directors of the East India Company, and the Commissioners for the Reduction of the National Debt), intrusted with the payment of annuities, or any dividends or shares of annuities, payable out of the public revenue of any colony or settlement belonging to the Crown of the United Kingdom, to any persons, corporations, or companies in the United Kingdom, or acting therein as agent or in any other character before described, shall, without further notice or demand thereof, deliver or cause to be delivered into the Chief Office of Inland Revenue in England an account in writing containing their names and residences, and a description of the annuities, dividends, and shares intrusted to them for payment, within one calendar month after the same shall have been required by public

notice in the London Gazette, and shall also, on demand by the inspector authorized for that purpose by the Commissioners of Inland Revenue, deliver or cause to be delivered to him, for the use of the said Commissioners for Special Purposes, true and perfect accounts of the amount of annuities, dividends, and shares payable by them respectively; and the said Commissioners for Special Purposes shall make an assessment thereon under Schedule (C.) at the rate before prescribed, subject to diminution on occasion of any exemptions to be allowed by the said Commissioners for Special Purposes, giving notice of the amount thereof to the respective persons intrusted with such last-mentioned payments, who shall respectively pay the duty on the said annuities, dividends, and shares on behalf of the persons, corporations, and companies entitled unto the same, out of the moneys in their hands; and they shall be acquitted of such payments in like manner, and the like proceedings in all respects shall be had under the said Commissioners for Special Purposes, as are before directed in respect of annuities payable out of the public revenue of the United Kingdom: Provided always, that the persons intrusted with such payment shall from time to time pay the duty so assessed thereon into the Bank of England, to the account to be kept at the Bank of England, as aforesaid with the Receiver General of Inland Revenue, and shall be answerable for such payment, and which duty so assessed shall, in default of such payment, be recoverable against the persons respectively intrusted with such payments as other duties charged on the parties may be recovered against them; and if any person intrusted with the payment of any such last-mentioned annuities, or any dividends or shares thereof, in the manner herein mentioned, or acting therein as agent, or in any other character herein described, shall neglect or refuse to deliver an account of his name and residence in the manner herein directed, or after demand, shall neglect or refuse to deliver an account as aforesaid of the amount of such annuities, dividends, and shares as he is intrusted with the payment of, or in the payment of which he shall act as agent, or in any other character herein described, he shall forfeit the sum of one hundred pounds over and above the duty chargeable on such annuities, shares or dividends.

Commissioners for Special Purposes to make assessments thereon.

The Income Tax (Foreign Dividends) Act, 1842—

5 & 6 Vict. c. 80, s. 2. Persons intrusted with the payment of foreign dividends

2 (*a*). All persons intrusted with the payment of annuities, or any dividends or shares of annuities, payable out of the revenue of any foreign state to any persons, corporations, companies, or

societies in Great Britain, or acting therein as agents or in any other character, shall, without further notice or demand thereof, deliver or cause to be delivered into the Chief Office of Inland Revenue in England an account in writing containing their names and residences, and a description of the annuities, dividends, and shares intrusted to them for payment, within one calendar month after the same shall have been required by public notice in the London Gazette, and shall also, on demand by the inspector authorized for that purpose by the Commissioners of Inland Revenue, deliver or caused to be delivered to him, for the use of the said Commissioners for Special Purposes, true and perfect accounts of the amount of annuities, dividends, and shares payable by them respectively; and the said Commissioners for Special Purposes shall make an assessment thereon under Schedule (C.) of the said last-recited Act, at the rate therein prescribed, subject to diminution on account of any exemptions to be allowed by the said Commissioners for Special Purposes, giving notice of the amount of such assessments to the respective persons intrusted with such payments, who shall respectively pay the duty on the said annuities, dividends, and shares, on behalf of the persons, corporations, and companies entitled unto the same, out of the moneys in their hands, and they shall be acquitted of such payments in like manner, and the like proceedings in all respects shall be had under the said Commissioners for Special Purposes, as are by the said last-recited Act directed in respect of annuities payable out of the public revenue of the United Kingdom: Provided always, that the persons intrusted with such payment shall from time to time pay the duty so assessed thereon into the Bank of England, to the account to be kept at the Bank of England with the Receiver-General of Inland Revenue, as directed by the said Act, and shall be answerable for such payment, and which duty so assessed shall, in default of such payment, be recoverable against the persons respectively intrusted with such payments, as other duties charged on the parties may be recovered against them; and if any person intrusted with the payment of any such last-mentioned annuities, or any dividends or shares thereof, in the manner herein mentioned, or acting therein as agent or in any other character, shall neglect or refuse to deliver an account of his name and residence in the manner herein directed, or, after demand, shall neglect or refuse to deliver an account as aforesaid of the amount of such annuities, dividends, and shares as he is intrusted with the payment of, or in the payment of which he shall act as agent or in any other character, he shall forfeit the sum of one hundred pounds,

or annuities shall deliver accounts thereof.

Commissioners for Special Purposes to make assessments thereon.

over and above the duty chargeable on such annuities, shares, or dividends.

(*a*) The part omitted is repealed by the Statute Law Revision (No. 2) Act, 1890.

The provisions of this section have been applied by 24 & 25 Vict. c. 91, s. 36, to the assessment of colonial companies. See *post*, p. 257.

29 & 30 Vict. c. 36, s. 9. Extending to persons registering foreign dividends, &c. for payment in the United Kingdom the provisions contained in 5 & 6 Vict. c. 35; 5 & 6 Vict. c. 80; 16 & 17 Vict. c. 34; 24 & 25 Vict. c. 91.

The Revenue Act, 1866—

9. The provisions made by the several Income Tax Acts in force on the fifth day of April, one thousand eight hundred and sixty-six, for assessing and charging the duties on dividends and shares of annuities payable out of the revenue of any foreign state or colonial government, and all interest, dividends, or other annual payments, payable out of or in respect of the funds, stocks, shares, adventure, or concern, intrusted to any person in the United Kingdom, for payment to any person therein, shall be and the same are hereby extended and shall be applied to the assessing and charging of the income tax on all such dividends and shares of annuities, and interest, dividends, and other annual payments, where the right or title of the person to whom the same may be payable is shown by the registration or entry of the name of such person in any book or list ordinarily kept in the United Kingdom; and for the purpose of such assessment and charge the agent or other person having the ordinary custody of such book or making such list shall be deemed to be the person intrusted with the payment of such dividends and shares of annuities, and interest, dividends, and other annual payments, within the meaning of the said Income Tax Acts.

48 & 49 Vict. c. 51, s. 26. Provision for further securing income tax on foreign and colonial dividends.

The Customs and Inland Revenue Act, 1885—

26. Section ninety-six of 5 & 6 Vict. c. 35, section two of 5 & 6 Vict. c. 80, section ten of 16 & 17 Vict. c. 34, and section thirty-six of 24 & 25 Vict. c. 91, shall be read in relation to the dividends therein respectively mentioned, as if the said sections included amongst the persons intrusted with the payment of such dividends the persons hereinafter described (that is to say)—

(a) Any banker or person acting as a banker who shall sell or otherwise realize coupons or warrants for or bills of exchange purporting to be drawn or made in payment of any dividends (save such as are payable in the United Kingdom only), and pay over the proceeds to any person or carry the same to his account:

(b) Any person who shall, by means of coupons received from any other person, or otherwise on his behalf, obtain

payment of any dividends elsewhere than in the United Kingdom:

(c) Any dealer in coupons who shall purchase coupons for any dividends (save such as are payable in the United Kingdom only) otherwise than from a banker or person acting as a banker, or another dealer in coupons:

A person intrusted with the payment of dividends, who shall perform all necessary acts so that the income tax thereon may be assessed and paid, shall be entitled to receive as remuneration an allowance of so much (not being less than threepence) in the pound of the amount paid as may from time to time be fixed by the Treasury: Provided that this section shall not impose on any banker or other person the obligation to disclose any particulars relating to the affairs of any person on whose behalf he may be acting.

The Customs and Inland Revenue Act, 1888— 51 & 52 Vict. c. 8, s. 24.

24.—(2.) Section twenty-six of the Customs and Inland Revenue Act, 1885, shall be read and construed as if the word "coupons" in sub-section (b) of that section, and the expression "coupons for any dividends" in sub-section (c) of that section, included "warrants for or bills of exchange purporting to be drawn or made in payment of any dividends."

The Income Tax Act, 1842— 5 & 6 Vict. c. 35, s. 97.

Securities issued at the Exchequer or other public office and India bonds, to be charged under Schedule (C.).

97. Any interest payable out of the public revenue on securities issued or to be issued at the Exchequer or other public office, by whatever names such securities shall be called, shall be charged to the said duties under the rules contained in Schedule (C.) by the Commissioners for assessing the profits of offices in the said Exchequer or other office aforesaid at which the same shall be made payable, and the interest payable by the East India Company on the bonds issued or to be issued by them shall be charged to the said duties under the like rules by the Commissioners hereinbefore appointed for that purpose, which said Commissioners respectively shall execute this Act in relation to the profits arising from such securities and bonds as aforesaid, in like manner as the Commissioners appointed by this Act are empowered to assess the profits arising from annuities payable out of the public revenue in other cases; and the said Commissioners respectively hereby authorized to execute this Act in relation to such securities and bonds as aforesaid shall appoint assessors and collectors of the said duties arising from such securities and bonds from and

amongst the officers intrusted with the payment or discharge of such securities and bonds, who shall respectively at the time of payment or discharge thereof compute the duty thereon, and after such computation shall enter the same in a certificate of assessment, and certify the same to the proper officer appointed for the payment or discharge of such securities and bonds, which officer is hereby empowered to stop and detain the said duty, and to pay the same into the Bank of England to the credit of the Receiver-General of Inland Revenue, in discharge of such assessment; and every person receiving or purchasing any such security or bond in circulation, with current interest thereon, shall be entitled and is hereby empowered to deduct from such interest the proportion of duty which will become chargeable thereon, in like manner and under the like powers and penalties as may be done in other cases of payment of interest, and as if such current interest were then due and charged to the said duty; and the like computation and assessment shall be made whenever a new security or bond shall be issued in discharge of any former security or bond, with interest, or in discharge of interest due on any former security or bond; and the person receiving such new security or bond in exchange for any former security or bond, with interest, or for such interest, shall pay to the proper officer at the time of receiving such new security or bond the full duty computed on the interest payable on the said former security or bond.

17 & 18 Vict. c. 24, s. 3. Interest on Exchequer bills, how to be charged.

The Income Tax Act, 1854—

3 (*a*). The interest on Exchequer bills which shall become due and payable in June next after the termination of this Act and of the said Act of the last session of parliament respectively, or of the duties granted by the said Acts respectively, shall be chargeable and shall be assessed up to the day of payment in June, in manner following; that is to say, on the interest computed up to the fifth day of April next immediately preceding with the rate of duty which shall be in force and chargeable under the said Acts respectively on the said fifth day of April, and on the interest computed from the said last-mentioned day up to the said day of payment in June, with the rate of duty which shall be in force and chargeable as aforesaid from and after the said fifth day of April; provided, that if the duties by this and the said other Act respectively granted shall finally cease and determine on the said fifth day of April, then the said interest for the whole year up to the said day of payment in June shall be chargeable with the rate of duty in force on the said fifth day of April immediately preceding.

38 & 39 Vict. c. 66 (1).

(*a*) The part omitted is repealed by the Statute Law Revision Act, 1875.

The Income Tax Act, 1842—

5 & 6 Vict. c. 35, s. 98. Claims of exemption to be made to the Commissioners for Special Purposes according to following rules.

98. Provided always, that all claims of exemption under any of the rules contained in Schedule (C.) from the said duties on annuities, dividends, and shares of annuities, payable out of the revenue of the United Kingdom, shall be made to the Commissioners for Special Purposes at the Chief Office of Inland Revenue in England, according to the following rules; *videlicet*—

First.—Every claim shall be made in writing, in such form as the Commissioners of Inland Revenue shall direct, and the said Commissioners for Special Purposes shall require the same to be verified on the affidavit of every such person as they shall think necessary, such affidavit to be made as before directed in all cases cognizable before the said Commissioners, and they shall have authority to demand and require, from every such person as they shall think proper to be examined touching such claim, true answers upon oath, to be made as before directed, to all such questions as they shall think material in such claim:

Second.—Whenever the Commissioners for Special Purposes shall have allowed any such exemption, they shall give an order for payment of the sums retained for the duties on such annuities, dividends, and shares, in respect of which they shall have allowed such exemption, to the respective claimants, or to the attornies or agents who shall have been authorized to receive the said annuities, dividends, and shares, on behalf of the said claimants; and such payment shall be made in like manner as is hereinbefore provided with respect to allowances to be granted under Number V. of Schedule (A.) of this Act.

5 & 6 Vict. c. 35, s. 99. Penalty for fraudulently claiming exemptions of stock.

99. If any person shall, with intent to defraud her Majesty, falsely or fraudulently make any claim to be exempted, either in his own behalf or any other, from the duty charged on such annuities, or any dividends or shares thereof, contrary to the intent of this Act, every such person shall forfeit the sum of one hundred pounds, and if such claim shall be made by any person in his own behalf he shall moreover be liable to be assessed in treble the duty to be charged on the said annuities and shares.

The Income Tax Act, 1842—

5 & 6 Vict. c. 35, s. 100. Duties in Schedule (D.) and rules deemed part of the Act.

100. The duties hereby granted, contained in the Schedule marked (D.) shall be assessed and charged under the following rules, which rules shall be deemed and construed to be a part of this Act, and to refer to the said last-mentioned duties, as if the same had been inserted under a special enactment.

Schedule (D.)

16 & 17 Vict. c. 34, s. 2.

The Income Tax Act, 1853—

Profits and gains from any kind of property.

For and in respect of the annual profits or gains arising or accruing to any person residing in the United Kingdom from any kind of property whatever, whether situate in the United Kingdom or elsewhere:

Profits and gains from professions, trades, &c.

And for and in respect of the annual profits or gains arising or accruing to any person residing in the United Kingdom from any profession, trade, employment, or vocation, whether the same shall be respectively carried on in the United Kingdom or elsewhere, and to be charged for every twenty shillings of the annual amount of such profits and gains:

Profits or gains of any person whatever, whether a foreign subject or resident abroad, from property in the United Kingdom or trade exercised therein.

And for and in respect of the annual profits or gains arising or accruing to any person whatever, whether a subject of her Majesty or not, although not resident within the United Kingdom, from any property whatever in the United Kingdom, or any profession, trade, employment, or vocation exercised within the United Kingdom, and to be charged for every twenty shillings of the annual amount of such profits and gains:

Interest of money, &c. and other annual profits and gains not charged by other schedules.

And for and in respect of all interest of money, annuities, and other annual profits and gains not charged by virtue of any of the other schedules contained in this Act, and to be charged for every twenty shillings of the annual amount thereof.

Before proceeding farther we shall find it convenient to discuss the subject-matter of this somewhat lengthy schedule. It must, however, be borne in mind that Schedule (D.) must be read with the whole of sect. 100, and may be restrained thereby.

1889, *Colquhoun* v. *Brooks*, L. R. 14 Ap. Cas. 514.

"I do not, however, agree that the rest of Schedule (D.), which is found in sect. 100, is mere machinery, or a mere collection of examples, not diminishing the generality of the earlier part of the schedule, but intended only to furnish a guide where the particular rule applies. The whole of the schedule must be read together. Every case that can possibly happen under Schedule (D.) is enumerated in sect. 100. For every case which cannot be brought under one or other of the 'first five cases' must fall under the 'sixth case.' Unquestionably the rules applicable to a particular case may cut down, and cut down very materially, the charging words in the earlier part of Schedule (D.)": Lord Macnaghten in *Colquhoun* v. *Brooks*.

The following phrases and expressions will deserve our special attention:—

(1.) *Profit or gains.*

(2.) *Residing in the United Kingdom.*

(3.) *Exercised within the United Kingdom.*

(4.) *Interest of money, annuities, and other annual profits and gains not charged by virtue of any of the other schedules.*

At present we shall only discuss (2) and (3); we shall discuss (1) when we come to consider the cases and rules which arise under the schedule; and we discuss (4) on p. 267.

(2.) "*Residing in the United Kingdom.*"

A person may have several Residences. Occupation for a portion of a Year is sufficient.

In *Lloyd* v. *Solicitor of Inland Revenue*, the Lord President said— 1884, *Lloyd* v. *Solicitor of Inland Revenue*, 11 R. 690; 21 S. L. R. 482; 2 Tax Cas. 37.

"We know some persons in exalted stations who have so many residences that they find them a very great encumbrance. And yet they are all residences in the proper sense of the term—that is to say, they are places to which it is quite easy for the person to resort as his dwelling place whenever he thinks fit, and to set himself down there with his family and establishment. That is a place of residence, and if he occupies that place of residence for a portion of a year he then is within the meaning of this clause, as I read it, residing there in the course of that year."

In *Young* v. *Commissioners of Inland Revenue*, the Lord President said— 1875, *Young* v. *Commissioners of Inland Revenue*, 2 R. 926; 12 S. L. R. 602; 1 Tax Cas. 57.

"Nothing like continuous residence is contemplated by the statute . . . . If a man has his ordinary residence in this country, it does not matter whether he is absent for a longer or shorter period during the year."

Subject to the exception in sect. 39 of the Income Tax Act, 1842 (see p. 322), in favour of temporary Residents for less than Six Months in one Year, it does not matter how short the residence is.

1817. *Att.-Gen.* v. *Coote*, 4 Price, 183; 18 R. R. 692.

A statute imposing a duty on the property of persons residing in Great Britain applies to persons residing there for any length of time, however short, although they may, at the same time, have a more permanent residence elsewhere.

Cited with approval, as applicable to the Act of 1853, by Lord Mure in *Lloyd* v. *Solicitor of Inland Revenue* (*supra*).

The fact of the Defendant's Domicile has nothing to do with the question: Richards, C.B., in *Att.-Gen.* v. *Coote*.

The occupation need not be personal.

1879. *Rogers* v. *Solicitor of Inland Revenue*, 6 R. 1109; 16 S. L. R. 682; 1 Tax Cas. 225.

A master mariner was absent from Great Britain, in command of a British ship, for an entire fiscal year. During that time he possessed a dwelling-house in Great Britain, in which his wife and children resided, and had no other residence.

Held, that "he resided in Great Britain" within Schedule (D.), and the Lord President said:—

"He is not a bit the less resident in Great Britain because the exigencies of his business have happened to carry him away for a somewhat longer time than usual during this particular voyage."

Cases.

1875. *Young* v. *Commissioners of Inland Revenue*, 2 R. 925; 12 S. L. R. 602; 1 Tax Cas. 57.

The master of a merchant vessel trading between Glasgow, the Mediterranean, and New York, who was absent from the country for more than nine months in the year, and was only resident in it during the remainder for short periods of two or three weeks at a time, but whose wife and family resided in Glasgow in a house of which he was tenant, and in which he resided when on shore, was held "resident in Great Britain" within Schedule (D.).

1884. *Lloyd* v. *Solicitor of Inland Revenue*, 11 R. 687; 21 S. L. R. 482; 2 Tax Cas. 37.

A British subject, who had, for many years, had his only place of business and two residences, a town and a country house, in Italy, became possessor of an estate in Great Britain in 1875, and was in the habit of living there during the summer months. During the financial year, 1883—84, he and his family lived there from 6th July to 31st October.

Held, that he was a person "residing in England" within Schedule (D.).

1905. *Turnbull* v. *Inland Revenue*, 7 F. 1; 42 S. L. R. 15.

A person had his ordinary residence abroad. His wife and family usually resided in Scotland, where he visited them year by year for some months. During the year of assessment he and his wife were not in the United Kingdom at all, but his children resided there in a house bought with his and her money.

Held, that he did not reside in the United Kingdom during the year of assessment.

1905. *Inland Revenue* v. *Cadwalader*, 7 F. 146; 5 Tax Cas. 101; 42 S. L. R. 117.

A tenant of a furnished house and shooting taken for three years, who resides there two months in the year, having his ordinary residence in New York, resides in the United Kingdom.

Residence of Corporations.

De Beers Consolidated Mines, Ltd. v. *Howe*, [1906] A. C. 455.

A company resides where its real business is carried on. The real business is carried on where the central management and control actually abides.

This is a pure question of fact to be determined, not according to the construction of this or that regulation or bye-law, but upon a scrutiny of the course of business and trading.

The Commissioners having found—(1) That the trade or business of the company constituted one trade or business, and was carried on and exercised within the United kingdom; (2) that the head and seat and directing power of the affairs of the company were at the office in London from where its chief operations were controlled, managed and directed.

Held, that on the evidence these conclusions of fact could not be impugned, and that the company was resident in the United Kingdom, although it was registered abroad.

Goertz & Co. v. *Bell*, [1904] 2 K. B. 136.

The findings of the Commissioners were similar to those in *De Beers Consolidated Mines, Ltd.* v. *Howe*, [1906] A. C. 455.

It was held that the company was resident in the United Kingdom.

1897. *Wingate & Co.* v. *Inland Revenue*, 24 Sc. Ses. Cas. 4th Series, 939; 34 S. L. R. 699; 3 Tax Cas. 569.

The Shipping Company "Chanaral" (owners of the ship *Chanaral*) was incorporated under Norwegian law in Norway, and had its registered office in Christiania, where the books were kept and the two managers resided. The managers held two of the ninety-five shares of the company, the remainder being held by shareholders in Scotland. Wingate & Co., of Glasgow, effected the whole of the chartering, kept all the accounts, and dealt with all the funds, and paid on behalf of the management from the profits of the first voyage a dividend direct to the shareholders. Prior to April, 1896, the ship had made one voyage from Rotterdam to various ports, ending at Liverpool. Income tax assessment under Schedule (D.) having been imposed upon "Wingate & Co. for the ship *Chanaral*" for the year ending 5th April, 1896, they appealed.

Held, that the company was resident abroad, but Wingate & Co. were properly charged as agents of the company.

See also, 1907, *New Zealand Shipping Co.* v. *Stephens*, 23 T. L. R. 213.

1874. *Att.-Gen.* v. *Alexander*, L. R. 10 Ex. 20.

The Imperial Ottoman Bank was a corporation created by Turkish Law. Its seat was fixed, by the concession and the statutes which constituted it, at Constantinople, with power to establish branches and agencies at other places. It was the state bank of Turkey, where it was a bank of issue, and was charged with the collection of the revenue, and with certain operations relating to the currency, and with the payment of interest on the public debt, and received from the State a subsidy on account of the public business transacted by it.

On its creation it took over and continued to carry on the business of an English Bank in London; and since its creation in 1863, the annual meetings of shareholders had always been held, and dividends declared, in London, though by its statutes the annual meetings might be held at any place which the committee of management might fix :—

Held, that the bank was not liable to be assessed to income tax in respect of its whole profits, as a "person residing within the United Kingdom," but was liable only in respect of the profits arising from its business carried on in England.

Next we must consider the effect of the words—

(3.) "*Exercised within the United Kingdom.*"

The meaning of "Exercising a Trade."

A question of practical importance and on which there is little authority may here be noticed. What amounts to the exercise of a profession, trade, employment, or vocation? This may be a simple question of fact determinable by the Commissioners. Thus a person who makes a casual profit on the Stock Exchange is not liable to pay income tax on it, but he may have so many transactions as to make a business of it, and then he becomes liable to income tax. Whether or not he has reached the point of making a business of it is a question of fact determinable by the Commissioners. But there are other cases not so simple, such as the formation of a building estate involving the purchase of land and subsequent resale thereof with houses on it. The point at which a person engaged in such operations is making a business of it so as to become liable to income tax is obviously difficult to define. Such a question, while primarily one of fact for the Commissioners, may involve the point as to whether there is any evidence to support their finding. However, the absence of authorities proves that this difficulty does not arise frequently.

1897. *Assets Co., Ltd.* v. *Inland Revenue*, 24 Sc. Ses. Cas. 4th Series, 578; 34 S. L. R. 487; 3 Tax Cas. 542.

1. The Assets Co. took over the assets and liabilities of the Glasgow Bank at a fixed sum, with the object (*inter alia*) of realising the assets.

An estimate of the assets had been made by the liquidators of the bank at the time when the Assets Co. took them over. The assets realised more than the estimate.

Held, that the surplus was not liable to income tax, as it was impossible to say what the Assets Co. paid for them, the case stating that "the estimated values did not affect the amount paid to the liquidators, which would have been the same if the estimated values had been increased or diminished to any extent."

2. Part of the assets realised consisted of "recoveries from debtors."

Held, by Lord Trayner, that debts recovered (although considered by the creditor not recoverable) are not a gain or profit in the sense of the Income Tax Acts.

Held, by Lord Young, that, unless a person makes a trade of buying and selling debts, if he purchases a debt and realises an amount exceeding the cost, he is not liable for income tax on the excess.

"Take even proper traders. If proper traders sell their old premises and buy new ones, and sell the old premises at a higher price than they paid for

them, investing the price which they got in the purchase of a site and the erection of new premises, I should say it was a totally untenable proposition that anything in excess of what they had paid for the old premises, perhaps twenty years before, at a better time for purchasing property, is income within the meaning of the Acts."—Lord Young.

1904. *Californian Copper Syndicate (Limited and Reduced)* v. *Harris*, 6 F. 894; 5 Tax Cas. 159; 41 S. L. R. 691.

The company purchased a property with the object of reselling it, and did so for shares in another company.

Held, that the purchase and sale being part of their business, they were liable for income tax on the difference between the price paid plus the outlay on the property and the value of the shares. It was immaterial that the shares had not been realised.

1906. *Inland Revenue* v. *Cardonald Feuing Co., Ltd.*, 9 F. 36; 44 S. L. R. 66.

A company purchased land, built houses on it, and "created feu duties" thereon amounting to a considerable sum per annum, which they sold.

The Commissioners declined to make an assessment, and the surveyor appealed on the ground that an assessment should have been made on an amount equal to the difference between the sale price of the feu duties and the original cost of the land.

Held, that this was a wrong basis of assessment, and appeal dismissed.

San Paulo (Brazilian) Railway Co. v. *Carter*, [1896] A. C. 31.

It is a question of fact where a trade is exercised.

"It seems to me that, as was said by Cockburn, C. J., in the case of *Sully* v. *A.-G.*, 'it is probably a question of fact where the trade is carried on,' and it is probably true to say that that phrase may be understood in two different senses. It may mean where the goods in respect of which trading is carried on are conveyed, made, bought, or sold; or, speaking of land, where it is cultivated or used for any other purpose of profit. That makes the locality of the goods or the land which are the subjects of the trade to be in a certain sense the place where the trade is carried on, because it is the place where the things corporeally exist, or are dealt with. But there is another sense, in which the conduct and management, the head and brain of the trading adventure, are situated in a place different from that in which the corporeal subjects of trading are to be found. It becomes, therefore, a question of fact, and according to the answer to be given to the question where is the trade in a strict sense carried on, will the assessment be." Lord Halsbury, L. C., in *San Paulo (Brazilian) Railway Co.* v. *Carter*. The subject having been divided by Lord Halsbury, L. C., into two branches, we shall treat the subject from this point of view, and we shall first consider those cases which depend on the locality of the goods.

Cases depending on the locality of the Goods, &c.

1888, *Werle* v. *Colquhoun*, L. R. 20 Q. B. D. 758; *Ericksen* v. *Last*, L. R. 8 Q. B. D. 414. *Grainger* v. *Gough*, [1896] A. C. 325.

"Wherever profitable contracts are habitually made in England by or for foreigners with persons in England, because they are in England, to do something for or supply something to those persons, a profitable trade is then exercised in England, even though everything to be done by them in order to fulfil the contract is done abroad." Lord Esher, M. R., in *Werle* v. *Colquhoun* and *Ericksen* v. *Last*, cited by Lord Herschell in *Grainger & Son* v. *Gough*.

Thus the first test to apply in a case of this class is to ascertain whether the contract was made in the United Kingdom. The mere employment by a foreign merchant of an agent to solicit and to transmit orders does not amount to an exercise of his trade in this country, nor does it become an exercise of his trade here if, in addition, the agent in some cases receives the price of the goods sold for transmission to his principal. There is a broad distinction between trading with a country and carrying on a trade within a country. (See Lord Herschell, *S. C.*). But delivery of goods in the United Kingdom under a contract of sale has been held to be an exercise of trade therein. (See *Turner* v. *Rickman*, *infra*.)

1860. *Sully* v. *Attorney-General*, 29 L. J. Ex. 464; 2 L. T. N. S. 439; 5 H. & N. 711; 6 Jur. (N. S.) 1018; 8 W. R. 472.

A firm of merchants having their principal establishment at New York, but having also branch establishments in England and other countries, carried on the business of buying goods in America, England and other European countries, and of selling them at a profit in New York. The defendant, a partner resident in England, and at the branch establishment, bought goods in England and shipped them to New York for the firm:—

Held, that the firm was not liable to be assessed to the income tax in respect of the profits earned by the firm from the purchase of the goods in England, and that the defendant was not bound to make a return of the profits of the firm, as the firm did *not exercise trade* in this country within the meaning of the Income Tax Acts, but in America, where the profits were received and the principal place of business was situated. (The defendant, however, was liable to be assessed in respect of his own share of the whole profits as a partner in the firm.)

In this case Cockburn, C. J., said: "He buys in one country and sells in another; but he has one given place of business in which he may be said to trade, and where his profits always come home to him. He carries on his trade where he is established as in his principal place of business. That I take to be the place where he exercises his trade, within the true meaning of the expression 'exercising trade' in this Act of Parliament."

Upon which dictum the following comment has been made—

"For when the Chief Justice" (alluding to Cockburn, C. J., *supra*) "uses the expression that a man exercises his trade where his profits come home to him, it does not mean at the place where he happens to reside, but where he gets the money." Denman, J., in *Pommery* v. *Apthorpe*.

1886, *Pommery* v. *Apthorpe*, 56 L. J. Q. B. 159; 2 Tax Cas. 182; 56 L. T. 24; 35 W. R. 307.

This case was decided on its own peculiar circumstances, and depends on the fact that the profitable contracts were made in America when the resales took place. Until these contracts for resale were made, it could not be said that any profitable contracts had been made at all.

Cases depending on the terms of the Contract.

1881. *Erichen* v. *Last*, L. R. 8 Q. B. Div. 414.

The appellants, a foreign company domiciled in Copenhagen, had three marine cables in connection with Aberdeen and Newcastle, communicating with the telegraph lines of the Post Office in the United Kingdom. They had also work rooms with clerks in London, Newcastle, and Aberdeen. Messages from this country were forwarded over the lines of the Post Office and the cables of the appellants to Denmark, and thence by their wires and the wires of foreign governments to Russia, China, Japan, and India. The total charges paid for transmitting such messages were collected by the Post Office, and, after deducting their dues, handed to the appellants, who retained the amount due to them for the transmission of messages over their cables and lines, and paid the residue to the various governments and companies respectively entitled to it. No profits were made by the appellants from the transmission of messages over the land lines in the United Kingdom.

Held, that the appellants "exercised a trade within the United Kingdom," and that they were chargeable to income tax on the balance of profits or gains from their receipts in this country from the transmission of messages.

1885. *Tischler* v. *Apthorpe*, 33 W. R. 548; 49 J. P. 372; 52 L. T. 814; 2 Tax Cas. 89.

The senior partner in the firm of Tischler & Co. (a French firm), the appellants, visited England each year seeking and taking orders for wine. The wines ordered were shipped by the appellants from Bordeaux, whence also bills of lading and invoices were forwarded by them, sometimes to the purchasers direct and sometimes to the London agents of the appellants, who collected all the accounts and received payment for all the wines ordered.

The agents received a commission on all wines sold in England by the appellants.

Held, that the appellants exercised a trade in the United Kingdom.

1886. *Pommery* v. *Apthorpe*, 56 L. T. 24; 35 W. R. 307; 56 L. J. Q. B. 155; 2 Tax Cas. 132.

A foreign merchant, who employs an agent in the United Kingdom through whom wine is sold to and money in payment received from English customers, exercises a trade in the United Kingdom.

1888. *Werle* v. *Colquhoun*, L. R. 20 Q. B. Div. 753.

A foreign merchant, who canvasses through agents in the United Kingdom for orders for the sale of his merchandise to customers in the United Kingdom, exercises a trade in the United Kingdom if the contracts for the sale of the merchandise are made therein.

It was suggested in the argument that the agent had no authority to receive the orders from customers as contracts, but that all the agent could do was to forward them abroad for acceptance there. Lord Esher, M. R., thought the inference irresistible to the contrary, and apparently the other judges agreed in this view. If this suggestion had been accepted as correct the case should apparently have been decided in favour of the appellant, as it would then appear to be identical with *Grainger & Son* v. *Gough* (*infra*).

Grainger & Son v. *Gough*, [1896] A. C. 325.

A foreign merchant, who canvasses through agents in the United Kingdom for orders for the sale of his merchandise to customers in the United Kingdom, does not exercise a trade in the United Kindom so long as all contracts for the sale and all deliveries of the merchandise to customers are made abroad.

1897. *Wingate & Co.* v. *Inland Revenue*, 24 R. 939; 34 S. L. R, 699; 3 Tax Cas. 569.

Wingate & Co., of Glasgow, effected the whole of the chartering of the ship *Chanaral* belonging to a Norwegian Co. They also kept the accounts and dealt with all the funds, and paid, on behalf of the management, a dividend direct to the shareholders of the company. Prior to April, 1896 (the end of the year of assessment), the ship had made one voyage from Rotterdam to various ports ending at Liverpool.

Held, that the profits of the ship were derived from trade exercised in the United Kingdom.

Watson v. *Sandie & Hull*, [1898] 1 Q. B. 326.

Sandie & Hull are commission merchants in England, Squire & Co. are provision merchants in America. Squire & Co. consign provisions to Sandie & Hull, sending consignment notes showing the amount drawn against each lot of provisions. Bills of lading with the draft attached are sent forward through a bank by the same mail. Sandie & Hull take up the draft and realise the goods. Sometimes the draft exceeds the price realised, and vice versâ. The risk of profit or loss rests with Squire & Co. Sandie & Hull have full discretion as to sale price: they invoice the goods in their own name, receive the proceeds of sale, assume all responsibility of payment by the purchasers, and from time to time render statements to Squire & Co., showing full receipts and debiting the account with their charges and commission, and remitting to or drawing upon Squire & Co. for the credit or debit balance, as the case may be.

Held, that as between Sandie & Hull and Squire & Co., the goods were the property of Squire & Co. until sold by Sandie & Hull, and that such sale being made by them on behalf of Squire & Co., the latter exercised a trade in the United Kingdom.

1898. *Turner* v. *Rickman*, 4 Tax Cas. 25.

A foreign company has an agent in England who, on receipt of an offer for the company's goods, communicates that offer to the company, and on receiving the authority of the company, accepts the offer. All goods for delivery in the United Kingdom are put on board ship by the company free at Boston, U.S.A., consigned to Liverpool in the name of the agent, who distributes them to the customers.

Held, that the contracts with the English customers, and the delivery of the goods were made in this country, and that the company exercised a trade here. Even if the contracts had been made abroad, the delivery of the goods here would have constituted an exercising of trade in this country.

Cases depending on the Conduct and Management of the Trading Adventure.

A partner in a foreign business who resides solely in England does not exercise a trade in England so as to be liable for the whole of his profits of the foreign business whether received in England or not. (*Colquhoun* v. *Brooks*.) The partnership deed was not included in the case stated for the opinion of the High Court, but it did not appear that the partner took any active part in the conduct of the foreign business. In this case Lord Macnaghten was of opinion that the result would have been the same if no one but the respondent had been interested in the concern.

Colquhoun v. *Brooks*, L. R. 14 Ap. Cas. 493.

The attempt was made to extend this principle to the case of a company registered in England and having its office in London, from which it exercised general direction over a Brazilian railway, but it was held that such a company partly exercised its trade in the United Kingdom, and was liable to be taxed on the whole of its profits. (*San Paulo* (*Brazilian*) *Railway* v. *Carter*.)

San Paulo (*Brazilian*) *Railway* v. *Carter*, [1896] A. C. 31.

It would appear from the latter case that if the respondent in *Colquhoun* v. *Brooks* had taken an active part in the management of the foreign business he would have been liable to be assessed on the whole of his profits therefrom. In these cases it is necessary to bear in mind what was the nature of the finding by the Commissioners. Inasmuch as their decision is binding on questions of fact, it cannot be reversed on such questions unless there is no evidence to support it. The finding of the Commissioners in *Colquhoun* v. *Brooks* was in favour of the taxpayer, while in the San Paulo case it was against the Railway Co. Thus in both cases the Court upheld the decision of the Commissioners as justified by the evidence in the case as stated.

The same result has followed in all the cases of this class except *Kodak, Ltd.* v. *Clark*, and the *Gramophone & Typewriter, Ltd.* v. *Stanley*, to which we shall shortly refer. In some of them the company seem almost to have been "stated" out of Court. Where facts of a somewhat ambiguous nature are first stated and then a strong finding is arrived at by the Commissioners adverse to the taxpayer, it becomes very difficult to say that there is no evidence to justify such a finding. Indeed, the Kodak Co. being, doubtless, aware of the trend of the previous cases, endeavoured by a writ of prohibition to prevent the Commissioners from taxing the profits in question, and thus to avoid the necessity of having to ask for a case to be stated. In this they failed, but they obtained from the Court an expression of opinion that the case ought to be so stated as to fairly raise the question in dispute, and this perhaps served their purpose as well as if they had succeeded on their writ.

Kodak, Ltd. v. *Clark*, L. R. (1903) 1 K. B. 505 ; *Gramophone and Typewriter, Ltd.* v. *Stanley*, [1906] 2 K. B. 856.

After the San Paulo decision the first case of importance to come before the Courts was *Apthorpe* v. *Peter Schoenhofen Brewery Co.* The brewery company, an English company, held nearly the whole of the capital stock of an American brewing company. The brewery could be managed from England, but, being in America, the control was delegated to the managers at Chicago, who were the directors of the American company. The Commissioners found that the English company carried on the American business. The Court of Appeal held that there was evidence to justify this finding. Wright, J., in the Court below, held that the delegation of the powers was an exercise thereof, while Collins, L. J., in the Court of Appeal, said that it was an important factor to consider that the ultimate tribunal of control was in England.

1899, *Apthorpe* v. *Peter Schoenhofen Brewery Co.*, 15 T. L. R. 244 ; 80 L. T. 395 ; 4 Tax Cas. 41.

The grounds of this decision do not seem consistent with the view of Lord Macnaghten in *Colquhoun* v. *Brooks*, that the result would have been the same had no one but Mr. Brooks been interested in the concern. Had that been so, Mr. Brooks must have delegated his powers, and so brought himself within Mr. Justice Wright's decision; and, further, the ultimate

tribunal of control must have been with Mr. Brooks in England. There would appear to be a considerable difference between any active control exercised over a business and a mere right of interference not involving a single action throughout the year of assessment. It is submitted that a person who merely possesses such a right does not, by living in the United Kingdom, exercise a trade therein.

1898, *Frank Jones Brewing Co.* v. *Apthorpe*, 15 T. L. R. 113; 4 Tax Cas. 6.

Similar to, but stronger than the Peter Schoenhofen case, is the *Frank Jones Brewing Co.* v. *Apthorpe*, in which the reports of the English company showed that they took an active part in the management of the American business. Other cases of this class are *St. Louis Breweries* v. *Apthorpe*, and *United States Brewing Co.* v. *Apthorpe*.

1898, *St. Louis Breweries* v. *Apthorpe*, 15 T. L. R. 112; 47 W. R. 334; 79 L. T. 551; 63 J. P. 135; 4 Tax Cas. 111.

The *Bartholomay Brewing Co.* (*of Rochester*) v. *Wyatt*, decided before the San Paulo Case, a decision in favour of the taxpayer, cannot now be relied on as an authority. (See judgment of Wills, J., in *St. Louis Breweries* v. *Apthorpe*.)

1898, *United States Brewing Co.* v. *Apthorpe*, 4 Tax Cas. 17.

There remains to be considered the important case of *Kodak, Ltd.* v. *Clark*, in which the company held 98 per cent. of the shares of an American company, but had no power or control over that company except as a shareholder, and had never, in fact, controlled or interfered with it. The Commissioners found against the English company, and held that they carried on the American business, but the Court of Appeal held that there was no evidence to justify this decision; and a similar decision was arrived at in the *Gramophone and Typewriter Co.* v. *Stanley*, *supra*, where the company held all the shares in a foreign company.

Bartholomay Brewing Co. (*of Rochester*) v. *Wyatt*, [1893] 2 Q. B. 499.

Kodak, Ltd. v. *Clark*, [1903] 1 K. B. 505 (C. A.).

In the result all these decisions do not leave the law in a very clear and settled condition. They sufficiently emphasize what is true in all income tax cases, *i.e.*, the necessity of marshalling the facts and carefully defining the points of law before the Commissioners. By great care over these matters, and by this alone, can the appellant hope, in a complicated case, to have his argument properly placed before the High Court.

Prior to *Colquhoun* v. *Brooks*, *infra*, the decisions had tended in a direction which favoured the Crown. In the *Cesana Sulphur Co.* v. *Nicholson* and the *Calcutta Jute Mills* v. *Nicholson*, *infra*, it was held that a company "resident" in England but trading abroad was liable to be assessed on all its profits, whether received in the United Kingdom or not. This was followed in the *Imperial Continental Gas Association* v. *Nicholson*, *infra*, in which the point was argued that the company should only be taxed on the profits received in England under Schedule D., Case V., but the Court held the contrary, following the *Cesana Case*.

The grounds of decision of the last case were that "foreign earnings" were not "foreign possessions" within Case V., and, this theory having been decided to be untenable in *Colquhoun* v. *Brooks*, it was thought that these old cases were not of much authority. (See Charles and Stephen, JJ., in *London Bank of Mexico and South America* v. *Apthorpe*, *infra*.)

However, *San Paulo* (*Brazilian*) *Railway Co.* v. *Carter*, *supra*, proved that the decision in *Colquhoun* v. *Brooks* had not affected the law to so great an extent as was at first supposed, and the recent cases have all been adverse to the taxpayer until the tide has once more turned in *Kodak, Ltd.* v. *Clark*. We shall now give the cases in order of date.

1876. *Cesana Sulphur Co.* v. *Nicholson*; *Calcutta Jute Mills* v. *The Same*, L. R. 1 Ex. D. 428.

The Cesana Company, an English company holding sulphur mines in Italy, was also registered there. The board of directors met at the registered office of the company in England, and by the articles of association controlled the business of the company. There was an Italian delegation consisting of two or three directors, resident in Italy, by whom all the practical management of the company's properties and affairs were carried on. All the operations of the company were carried on in Italy, but the Italian directors were in constant correspondence with the English directors.

Held, that the company was liable to pay income tax on the whole of its profits, whether received in the United Kingdom or not.

The Calcutta Company, an English company, held jute mills in Bengal. The company had no office or other place of business in the United Kingdom,

though for registration it had an address in London at the office of one of the directors where its meetings were held. The board had similar powers to those in the *Cesana Case*. They had power to and did appoint agents and a director, who resided in Calcutta and had the entire control of the business in India. All the operations of the company were carried on in India. The decision was the same as that in the *Cesana Case*. In both the above cases the finding of the Commissioners was adverse to the company.

The arguments principally related to the "residence" of companies, but in the *Calcutta Case* it was argued that if the company resided in England, still the profits received in England by the English shareholders were alone taxable. However, no mention was made of Case V., the foundation of the argument in *Colquhoun* v. *Brooks*, and in fact at this period the point of law had not crystallized into its modern form as to whether or not a trade is exercised in the United Kingdom.

1877. *Imperial Continental Gas Association* v. *Nicholson*, 37 L. T. 717; 1 Tax Cas. 138.

Foreign gasworks are not foreign possessions within Case V. of Schedule (D.), and an English company carrying on foreign gasworks is liable to be taxed on the whole of its profits therefrom, whether received in the United Kingdom or not.

This case, so far as it can be considered as imposing a limitation on the meaning of the word "possessions," is overruled by *Colquhoun* v. *Brooks*.

1889. *Colquhoun* v. *Brooks*, L. R. 14 App. Cas. 493.

A person resident in the United Kingdom and engaged in a trade carried on entirely abroad in which he takes no active part does not exercise a trade in the United Kingdom so as to be liable to be assessed on the whole of the profits of the foreign trade, whether received in the United Kingdom or not.

London Bank of Mexico and South America v. *Apthorpe*, [1891] 2 Q. B. 378.

The bank carried on business in London with branches abroad. The directors and shareholders met at the head office in London, where the business of bankers (other than that of current banking accounts) was carried on and from whence the affairs of the company were directed and managed, the seat of power being in London with the directors. All usual banking business was conducted at the branches abroad by managers, subject to general directions and instructions for management issued by the head office in London. The company's dividends were paid in London, an adjustment of balances being from time to time made between the head office and the branches, and no special remittance of profits from the branches for the purpose of paying the dividends was ordinarily made. Of the profits earned at one of the branches in Mexico, a portion was not remitted to England, but was applied to paying, in Mexico, the consideration for certain rights and concessions purchased by the company from another bank in that country.

Held, the bank had only one business, which they carried on in England, and were liable to pay income tax in respect of the portion of the profits earned in Mexico and not remitted to England.

Bartholomay Brewing Co. (of Rochester) v. *Wyatt*, [1893] 2 Q. B. 499.

An English company was formed for the purpose of carrying out an amalgamation of three American breweries and carrying on the business under one management.

By a law of New York State in America an English company is prohibited from owning and carrying on a brewery in that state.

In consequence, an American company was formed to which the business was conveyed, and in which the English company held all the shares except seven, these seven being held by the seven trustees or directors of the American company. The American brewery was formed for the purpose of brewing. The English company was formed to manage the affairs, or take over and carry on the business of the American company, either by acquiring

the whole or any part of its shares or otherwise. The brewing trade and manufacture was carried on exclusively in America, where the books and banking account were kept.

The managers of the brewery, the trustees of the American company, sent the accounts yearly to the English company. The directors of the English company considered them, and agreed the dividend, and communicated their decision to the American company. The American company then declared their dividend, upon which the directors of the English company declared a corresponding dividend.

No dividend warrant was issued by the American company, but the amount of profit to be divided on the shares held by the English company was sent over in bulk by telegram, so far as it was required by the English shareholders of the English company, such portion of the dividends as was required for certain American shareholders being, however, retained by the American company, and distributed there direct on behalf of the English company.

The Commissioners found that—

1. The brewing business was the business of the English company, and its profits were their profits.
2. The head and seat and directing power of the English company was in London.
3. The American company was the agent of the English company.

Held, that the English company did not exercise a trade in the United Kingdom.

This case is very like *Apthorpe* v. *Peter Schoenhöfen Brewery Co.*, and in that case was considered to be no longer an authority after the decision of the House of Lords in the *San Paulo Case*.

Nobel Dynamite Trust Co. v. *Wyatt*, [1893] 2 Q. B. 499.

An English company was formed to acquire shares in other companies, to superintend, manage, and take part in the management of such companies, and to exercise the rights and enjoy the privileges of shareholders in such companies.

The English company carried on no manufacturing business, and did not buy or sell goods. They acquired shares in certain foreign companies. A large number of the shareholders of the English company resided abroad, and the dividends due on the shares in the foreign companies were, by the direction of the English company, paid into banks abroad. The dividends on the shares belonging to the foreign shareholders were paid out of these sums in the foreign banks.

The Commissioners found that the English company exercised a trade in England.

Held, that they did not do so.

This case, though decided at the same time as the *Bartholomay Case*, is quite different in its circumstances. It seems to be more like *Kodak, Ltd.* v. *Clark* (*infra*), and is probably right even if the *Bartholomay Case* is wrong.

San Paulo (*Brazilian*) *Railway Co.* v. *Carter*, [1896] A. C. 31.

An English company were the proprietors of a railway in Brazil. The company had its registered office in London, in which place its meetings were held, dividends declared, and books kept. The general direction of the company was in London, but the company might have agencies in Brazil. No person, except the directors and persons thereunto expressly authorised by the board, had any authority to enter into any contract so as to impose thereby any liability on the company. The board appointed a superintendent in Brazil who must obey and execute their orders, and might be dismissed by them.

Held, that the business of the company was carried on in London as well as in Brazil, and that the company was assessable under Case I. of Schedule (D.) and not under Case V.

1896. *Grove* v. *Elliots and Parkinson*, 3 Tax Cas. 481.

An English company owning oil wells in Galicia, and having its management vested in a board of directors who meet at the registered office, is taxable on the whole of its profits, although a portion only are remitted to England. The oil was sold abroad, and there was a manager resident abroad who had power to enter into contracts for the sale of oil.

1898. *Apthorpe* v. *Peter Schoenhofen Brewery Co.*, 15 T. L. R. 244 (C. A.); 4 Tax Cas. 41; 80 L. T. 395.

All the capital stock of an American brewing company, except three shares of 100 dollars each, was acquired by an English company.

The affairs of the brewery could be, if necessary, directed from, and administered at, the registered office of the English company by the directors, who had the entire control and the entire directing power over the affairs of the American company. These powers were, however, delegated to the managers of the brewery at Chicago, who were the directors of the American company.

The board of directors of the English company met in England, and had complete power to control the American company.

The Commissioners of Inland Revenue found—

1. That the business carried on at Chicago was, in fact, carried on by, and was the business of, the English company, and that the profits made were the profits of the English company.
2. That the seat of the English company was at its office in London, and that if the business and profits were technically the business and profits of the American company, that company was for such purpose the agent of the English company.

Held, that the company was taxable on the whole of its profits. Wright, J., held that the delegation of the powers was an exercise thereof.

A. L. Smith, L. J., considered it a question of fact whether the business of the English company was carried on partly in England and partly in Chicago.

Collins, L. J., said that it was an important factor to consider that the ultimate tribunal of control was in England.

1898. *The Frank Jones Brewing Co.* v. *Apthorpe*, 15 T. L. R. 113; 4 Tax Cas. 6.

In this case there was a committee of management who resided in America, and by American law must consist of American citizens. Counsel admitted that the case could not be distinguished from *Apthorpe* v. *Peter Schoenhofen Brewery Co.* The reports of the appellant company showed that they took an active part in the management of the business, and there was a large amount of correspondence between the appellant company and the committee of management.

1898. *St. Louis Breweries, Ltd.* v. *Apthorpe*, 15 T. L. R. 112; 79 L. T. 551; 4 Tax Cas. 111; 47 W. R. 334; 63 J. P. 135.

The St. Louis Breweries Association, an American corporation, issued 50,886 shares, of which 50,872 were issued to the appellant company, and the remaining 14 were held in America.

The brewing, manufacture and trade were carried on exclusively at St. Louis under the immediate management of the directors of the American corporation. These directors, in the reports of the appellant company, were termed "the board of management in St. Louis." The books were all kept at St. Louis.

The appellant company, an English company, appointed an accountant, who proceeded to America at the end of each financial year and audited the accounts of the breweries.

At the end of each financial year a copy of the balance sheet and profit and loss account was forwarded to the appellants by the American corporation.

The directors of the appellant company considered the accounts and agreed the rate of dividend which they considered should be declared.

They communicated their decision to the American corporation, who always declared a dividend at the rate recommended. The cash for the dividend was sent over in bulk by telegram.

By the memorandum of association of the appellant company the objects for which it was established were, *inter alia*, (a) "to acquire the whole or any part of the capital stock of the St. Louis Brewing Association in the State of Missouri"; (b) "to carry on business as brewers, maltsters, &c."; (c) "to allow or cause the legal estate and interest in any businesses or property acquired, established, or carried on by the company to remain, or be vested, or registered in the name of or carried on by any American company formed, or to be formed, and either upon trust for or as agents or nominees of this company, or upon any other terms or conditions which the board of directors may consider for the benefit of this company, and to manage the affairs or take over and carry on the business of any such American company, either by acquiring the whole or part of the shares, or stock, or debentures, or other securities thereof. . . . and to exercise all or any of the powers of any such company or of holders of shares, or stock, or debentures, or securities thereof, and to receive and distribute as profits the dividends and interest on such shares, stock, debentures, or securities."

The Commissioners found as follows:—

1. That the business carried on at St. Louis was in fact carried on by, and was the business of, the appellant company, and that the profits were the profits of the appellant company.
2. That the head and seat and directing power of the appellant company were at the registered office in London, and that if the business at St. Louis and the profits made thereby were technically the business and profits of the American company, that company was for such purpose the agent of the appellant company.

Held, that the Crown was entitled to judgment.

1898. *United States Brewing Co., Ltd.* v. *Apthorpe*, 4 Tax Cas. 17.

This case was admitted by counsel for the company to be indistinguishable from *The Frank Jones Brewing Co.* v. *Apthorpe*.

The company held two of their five breweries in the State of New York in the name of an American corporation, formed or kept in existence for the purpose of complying with a law of that State against aliens holding such property. The entire capital stock of such American corporation, with the exception of three shares of 100 dollars each, was owned by the appellant company. The other three breweries were held direct by the appellant company in New Jersey.

Held, that the case was governed by *The Frank Jones Brewing Co.* v. *Apthorpe*.

Kodak, Ltd. v. *Clark*, [1903] 1 K. B. 505 (C. A.).

Kodak, Ltd., an English company, held 98 per cent. of the shares in a foreign company.

By a law of the foreign State Kodak, Ltd. was unable to exercise any other power in or control over the foreign company than by its vote as a shareholder at the general meetings of that company. Kodak, Ltd. had never, in fact, controlled or interfered in the management or business of the foreign company, and had never taken any part in the declaration of dividend by that company.

The Commissioners found—

1. That the foreign company was carried on by and was the business of Kodak, Ltd., and that the profits and business were technically the profits and business of Kodak, Ltd.
2. That if the foreign business and profits were technically the business and profits of a foreign company, the foreign company for all purposes were the agents of Kodak, Ltd.
4. That Kodak, Ltd. were liable to be assessed for its profits made abroad under Schedule (D.), Case I.

Held, that Kodak, Ltd. had no control over the foreign company either as masters or principals, and that whatever amount of control they might

exercise, it was the control of shareholders and of shareholders only. Kodak, Ltd. were not, therefore, assessable upon the full amount of the profits of the foreign company under Schedule (D.), Case I.

The Gramophone and Typewriter, Ltd. v. *Stanley*, [1906] 2 K. B. 856.

The fact that an English company owns all the shares in a foreign company is not in itself sufficient to justify a finding of the Commissioners that the English company controlled the German company, and that the entire business of the latter company was carried on by the English company.

The Income Tax Act, 1842— 5 & 6 Vict. c. 35, s. 100.

SCHEDULE (D.).

The said last-mentioned duties shall extend to every description of property or profits which shall not be contained in either of the said Schedules (A.), (B.), or (C.), and to every description of employment of profit not contained in Schedule (E.), and not specially exempted from the said respective duties, and shall be charged annually on and paid by the persons, bodies politic or corporate, fraternities, fellowships, companies, or societies, whether corporate or not corporate, receiving or entitled unto the same, their executors, administrators, successors, and assigns respectively. To what the duty extends, and by whom to be paid.

With reference to the above, and Case VI. hereinafter mentioned, Lord Blackburn has said, in *A.-G.* v. *Black*: "The words in this section are very extensive. My brother Martin says: 'It seems impossible that any net could be extended more widely; every possible source of income seems included.' Not, however, that every kind of income derived by a corporation, in whatever way it may come to them, would be included in it. They would not be liable except in respect of something of the same nature and kind as what had been previously mentioned; not, for instance, in respect of a borough rate, a poor rate, or a highway rate, because these are not within the analogy of the 'property or profit' previously described." Lord Blackburn in 1871, *A.-G.* v. *Black*, L. R. 6 Ex. 310.

"Property or Profits."

"This refers to property or profits of the same description as in these Schedules": Bramwell, B., in *Foley* v. *Fletcher*. 1858, *Foley* v. *Fletcher*, 3 H. & N. 783; 28 L. J. Ex. 100; 5 Jur. (N. S.) 342; 7 W. R. 141.

1903. *Grove* v. *Young Men's Christian Association*, 4 Tax Cas. 613; 88 L. T. 696; 67 J. P. 279.

A society formed for the improvement, spiritual, mental, social and physical, of young men, carries on a restaurant, as well as educational classes, gymnasium and publication department; the restaurant is carried on on the usual commercial principles, and is open to the public.

Held, that the association is liable to income tax on the profit made by the restaurant.

The Income Tax Act, 1853— 16 & 17 Vict. c. 34, s. 50.

50. In ascertaining, estimating, or assessing the profits of any person chargeable under Schedule (D.) of this Act, either upon appeal or otherwise, it shall be lawful to estimate the value of all doubtful debts due or owing to such person; and in the case of the In estimating profits under Schedule (D.) doubtful debts to be valued.

bankruptcy or insolvency of the debtor, the amount of the dividend which may reasonably be expected to be received on any such debt shall be deemed to be the value thereof, and the duty chargeable under the said Schedule shall be assessed and charged upon the estimated value of all such doubtful debts accordingly.

Schedule (D.).—First Case.

5 & 6 Vict. c. 35, s. 100.

The Income Tax Act, 1842—

Rules for ascertaining the said last-mentioned Duties in the particular Cases herein mentioned.

Rules for ascertaining the duties.

First Case.—Duties to be charged in respect of any trade, manufacture, adventure, or concern in the nature of trade, not contained in any other Schedule of this Act.

1814. *A.-G.* v. *Borrodaile*, 1 Price, 148.

The ownership of trading vessels let to freights is a trade, or concern in the nature of trade, within the meaning of the 46 Geo. 3, c. 65. (Schedule (D.) first case of the above Act, is identical with that of the Income Tax Act, 1842.)

Interest.

It will often be doubtful whether interest should be assessed under Case I. or Case IV., *post*, p. 245; and it may fall equally naturally under both Cases. It is then in the option of the income tax authorities under which Case it should be assessed. See as to this, and as to the distinction between Case I. and Case IV., *post*, p. 246.

Rules.

Computation of duty on trade.

First.—The duty to be charged in respect thereof shall be computed on a sum not less than the full amount of the balance of the profits or gains of such trade, manufacture, adventure, or concern upon a fair and just average of three years, ending on such day of the year immediately preceding the year of assessment on which the accounts of the said trade, manufacture, adventure, or concern shall have been usually made up, or on the fifth day of April preceding the year of assessment, and shall be assessed, charged, and paid without other deduction than is hereinafter allowed: Provided always, that in cases where the trade, manufacture, adventure, or concern shall have been set up and commenced within the said period of three years, the computation shall be made for one year on the average of the balance of the profits and gains from the period of first setting up the same: Provided also, that in cases where the trade, manufacture, adventure, or concern shall have been set up and commenced within the year of

assessment, the computation shall be made according to the rule in the Sixth Case of this Schedule.

The Finance Act, 1907. 7 Edw. 7, c. 13, s. 24.

24.—(2.) Where a person charged or chargeable with income tax in respect of any profession, trade, or vocation which has been set up or commenced within the period of three years upon the average of which the profits or gains are to be taken under the Income Tax Acts, or within the year of assessment, proves at the end of the year of assessment to the satisfaction of the Commissioners by whom the assessment has been or can be made that the actual profits or gains arising from the profession, trade, or vocation in the year of assessment fall short of the profits or gains as computed in accordance with those Acts, he shall be entitled to be charged on the actual amount of the profits or gains so arising instead of on the amount of the profits or gains so computed, and, if he has paid the full amount of the tax on the profits or gains so computed, be entitled to repayment of the amount overpaid.

"Balance of the Profits or Gains."

"The expression 'balance of the profits or gains' is not a happy one; but the meaning obviously is the balance arrived at by setting against the receipts the expenditure necessary to earn them": Lord Herschell in *Gresham Life Assurance Society* v. *Styles*. *Gresham Life Assurance Society* v. *Styles*, [1892] A. C. 323.

"'The amounts of the profits and gains' was the expression all through the earlier legislation on the subject down to the Act of 1805. In that year the expression was altered, as is pointed out by Mr. Dowell in his valuable book on the Income Tax Acts, p. 114; and the observation appears to be well founded, that the alteration of the language pointed rather to a more careful return or statement of income, an account in a debtor and creditor form, and intended to prevent deductions, which possibly had been up to that time claimed, being permitted to reduce the amount of the profit which the debtor and creditor account ought to show. But except as indicating the form rather than the substance of what should be shown in the return as the balance of profits and gains, I am in the condition of Lord Blackburn, who said, in the case of *Coltness Iron Co.* v. *Black*, L. R. 6 App. Cas. 334, that he had been unable to discover any difference in the meaning of the two phrases": Lord Halsbury, L. C., *S. C.*

It was said by Lord Fitzgerald in *Last* v. *London Assurance Corporation*, that the interpretation put on "profits" in 1883, in the *Mersey Docks* v. *Lucas*, L. R. 8 App. Cas. 891, decided on Schedule (A.), No. III., and referred to on p. 136, was applicable to Schedule (D.). "We are bound to adopt the interpretation put on 'profits' in the *Mersey Docks* v. *Lucas*, L. R. 8 App. Cas. 891, that the expression means 'the incomings of the concern after deducting the expenses of earning them,' or, 'income of whatever character it may be over and above the costs and expenses of receipt and collection,' and that 'the gains of a trade are what is gained by the trading for whatever purpose it is used'"; but this view was dissented from by Lord Herschell in the later case of *New York Life Insurance Co.* v. *Styles*, in which, after quoting the above passage, he says that "These definitions were, I doubt not, correct in relation to the facts of the *Mersey Docks Case*, and must be accepted for the purposes of any other case of a similar character. But I do not think they are applicable when dealing with a life insurance concern." 1885, *Last* v. *London Assurance Corporation*, L. R. 10 App. Cas. 450. 1889, *New York Life Insurance Co.* v. *Styles*, L. R. 14 App. Cas. 410.

The concern was a *mutual* life insurance concern, and Lord Herschell considered that all the members being policy holders, no income tax should be

deducted from the income received from premiums on the policies of its members. There could be no trading between the concern and its members. Therefore, to this concern, not being a trading concern, the definition of Lord Fitzgerald was inapplicable.

Lord Herschell, however, agreed with the definition that "the gains of a trade are what is gained by the trading, for whatever purpose it is used." Lord Herschell went on to say, "*once show that profits are made by trading, and they are traceable, whatever the purpose to which they may be applied.*"

And in *Russell* v. *Town and County Bank*, Lord Herschell explained the meaning of the word "profits" as follows:—

1888, *Russell* v. *Town and County Bank*, L. R. 13 App. Cas. 424.

"*For the purpose of arriving at the balance of profits, all that expenditure which is necessary for the purpose of earning the receipts must be deducted, otherwise you do not arrive at the balance of profits; indeed, you do not ascertain, and cannot ascertain, whether there is such a thing as profit or not. The profit of a trade or business is the surplus by which the receipts from the trade or business exceed the expenditure necessary for the purpose of earning those receipts. That seems to me to be the meaning of the word 'profits' in relation to any trade or business. Unless and until you have ascertained that there is such a balance, nothing exists to which the name 'profits' can properly be applied.*"

Thus, to make the definitions cited by Lord Fitzgerald applicable to Schedule (D.), we must incorporate the idea of trading into them.

N. Y. L. Ins. Co. v. *Styles*, L. R. 14 App. Cas. 409.

"The fact that moneys, which were not in fact profits, are erroneously so called does not make them profits within the Income Tax Acts": Lord Herschell in *New York Life Insurance Co.* v. *Styles*.

1883, *Mersey Docks* v. *Lucas*, L. R. 8 App. Cas. 905.

Gains—Profits and Gains are Equivalent Terms.—See Lord Selborne, L. C., in the *Mersey Docks* v. *Lucas*.

When there are "Profits" within the Schedule their destination is immaterial.

1884, *Paddington Burial Board* v. *Commissioners of Inland Revenue*, L. R. 13 Q. B. D. 14.

"In this case the burial board are entitled to charge any fees they think proper, and in the course of their business they make a profit. When once you have the fact that a profit is made, it is taxable under the Income Tax Act, and since the case of *Mersey Docks* v. *Lucas*, L. R. 8 App. Cas. 891, it must be taken to be wholly immaterial what is the destination of such profit—whether it is appropriated to the benefit of one or more persons, or retained for the benefit of the person who makes it": Smith, J., in *Paddington Burial Board* v. *Commissioners of Inland Revenue*.

Armitage v. *Moore*, [1900] 2 Q. B. 363.

A firm of worsted spinners also generated steam power which they supplied to other persons. The firm became insolvent, and the only part of their business carried on by the trustee for the benefit of their creditors was the supply of the steam power. The sums received by the trustee for the steam power supplied exceeded the cost of supplying it, though the assets realised by the trustee had only produced 8*s.* in the pound.

Held, that the profits made by the trustee in supplying the steam power were liable to income tax.

The Mersey Docks v. *Lucas*, *supra*.

The fact that there is a statutable dedication of a Fund does not make it not liable to Income Tax.—*The Mersey Docks* v. *Lucas*.

1871, *A.-G.* v. *Black*, L. R. 6 Ex. 308.

Consolidation by Act of Parliament of a taxable Fund with an untaxable Fund does not make the former untaxable.—*A.-G.* v. *Black*, *Corporation of Dublin* v. *M'Adam*.

1887, *Corporation of Dublin* v. *M'Adam*, 20 L. R. Ir. 497; 2 Tax Cas. 387.

Application of the Rule to a Triple Business, and also to a Life Insurance Business.

1884. *Last* v. *London Assurance Corporation*, L. R. 12 Q. B. D. 389.

An insurance company having one body of shareholders carried on three branches of business, viz., marine, fire and life insurance business. The

liabilities of the company were discharged partly out of premiums, partly out of income arising from large invested funds, which in the management of the business were allocated to the marine, fire and life branches respectively, and styled the marine, fire and life funds; but the results of the business in all the branches were thrown together into one account called the "profit and loss account," and dividends were declared out of the balance of this account, and not out of the profits of the particular branches.

Held, that for the purpose of income tax the three branches must be treated as one business, and the profits calculated on the results of that business taken as a whole. See also to the same effect, *Scottish Union and National Insurance Co.* v. *Inland Revenue.*

1889, *Scottish Union and Nat. Ins. Co.* v. *Inland Revenue*, 16 R. 461; 26 S. L. R. 330; 2 Tax Cas. 551.

Held, also, that additions made to the life fund of the company out of receipts of the year were not subject to income tax as profits. See also to the same effect, *Scottish Union and National Insurance Co.* v. *Inland Revenue.*

NOTE.—Other questions arose in this case, and it is partly reversed in L. R. 10 App. Cas. 438, but the above decisions were not appealed against.

Distinction between a Life Insurance and a Fire Insurance Business.

"In the course of the argument I have pointed out the radical distinction and difference between fire and life assurance, and I will not repeat myself further than to observe generally that, as fire insurances run out in all their incidents in one year, each payment of premium representing a thoroughly fresh transaction, it practically matters not to either side for income tax purposes whether the profit, which is in such case simply the excess of annual premiums received over annual losses actually sustained, is ascertained with minute accuracy by reference to the current year of each policy, or whether one takes the arbitrary year of the calendar and assumes that to be the true policy year in respect of all receipts and payments within it; the average must be substantially the same in either. In life assurance each year's premium has relation to the whole duration of the life or risk, and every year's premium has to be set aside and capitalized for payment of the future debt: in no sense whatever can the life fund as such be deemed to represent profit": Day, J., in *Last* v. *London Assurance Corporation.*

1884, *Last* v. *London Assurance Corporation*, L. R. 12 Q. B. D. 400.

"The profits and gains of a life insurance business can be ascertained only by actuarial calculation. And this actuarial calculation may be obtained by taking the result of the quinquennial investigation prescribed by statute, or of the periodical investigation in use in companies established before the statute, or by an investigation covering the three years prescribed by Schedule (D.) of the Income Tax Acts": The Court in *Scottish Union and National Insurance Co.* v. *Inland Revenue.*

Scottish Union and National Insurance Co. v. *Inland Revenue, supra.*

1876. *Imperial Fire Insurance Co.* v. *Wilson*, 35 L. T. N. S. 271; 1 Tax Cas. 71.

In making a return of their profits for assessment to income tax under Schedule (D.) of the Income Tax Act, a fire insurance company is not permitted by the Act to credit themselves with, or to claim a deduction for, a portion, calculated by them at 33 per cent., or one-third of the amount of premiums received during the given year, as the unearned or unexhausted portion of such premiums, although in respect of such portion the company remain liable to losses which they may incur in the ensuing year. The fair and proper mode of ascertaining the amount of net profits for the purposes of the Act (it being impossible to ascertain it with such strictly mathematical accuracy as to do perfect and absolute justice) is to take on the one side the whole receipts, and on the other the whole expenditure and disbursements for the given year, the balance remaining being, for the time at least, net profits on which the tax should be assessed. This being done year by year, there is an absolute balancing of accounts; and if any wrong be done by losses afterwards occurring in respect of premiums on which, as profits, income tax has been assessed and paid, that will be taken into consideration in the ensuing year.

This case has been followed in *Scottish Union and National Insurance Co.* v. *Inland Revenue.* See p. 219.

Application of the Rule to Participating Policies in a Life Insurance Business.

1885. *Last* v. *London Assurance Corporation*, L. R. 10 App. Cas. 438.

A life assurance company issued "participating policies" at an increased premium, according to the terms of which at the end of each quinquennial period "the gross profits" of such policies were thus dealt with: two thirds were returned by way of bonus or abatement of premiums to the holders of such policies then in force; the remaining third went to the company, who bore the whole expenses of the business, the portion remaining, after payment of expenses, constituting the only profit available for division among the shareholders.

Held, that the two thirds returned to the policy holders were "annual profits and gains," and assessable to income tax.

The fact that Customers receive a portion of the Incomings does not prevent them from being Profits.

Lord Blackburn in 1885, *Last* v. *London Assurance Corporation*, L. R. 10 App. Cas. 444.

"I have been unable to agree with this opinion. The Master of the Rolls seems to think that in estimating the profits of a business you must always, as he words it, 'consider the shareholders and the customers in antithesis.' As I understand this figurative expression, he seems to think that whatever is by the bargain to be given to the customer must be an expense preliminary to the earning of profit, and cannot be itself a part of the profit. I rather think it was from (I cannot but think hastily) assenting to this position that Cotton, L. J., put the construction from which I have dissented on 5 & 6 Vict. c. 35, s. 54": Lord Blackburn in *Last* v. *London Assurance Corporation*.

Equitable Life Assurance Society of the United States v. *Bishop*, [1900] 1 Q. B. 177 (C. A.)

A life insurance company had a capital divided into shares, the dividends on which were limited to seven per cent. The powers of the company were vested in a board of directors elected by the shareholders. The net premiums and interest (a) arising from the securities in which the share capital was invested, and (b) arising from the general investments of the company, after provision for liabilities, were applied as follows:—All expenses and outlays determined by the directors in their discretion were paid, then a reserve, as required by the regulations of the insurance department of the State of New York, was set aside, then a dividend not exceeding seven per cent. was paid to the shareholders on their capital, then such sums by way of reserve or surplus reserve were set aside, as the directors in their discretion might determine, and the balance, as the directors might determine, was then invested to provide for a division amongst the participating policy-holders of the company by way of bonus on, or increase to, the amount insured, according to such principles and methods as might from time to time be adopted by the society (through the directors) for such distribution. Such division amongst the participating policy-holders took place under the articles of association every five years. The insurance business of the company was conducted on the mutual plan.

Held, that the surplus returned or credited to the policy-holders was "annual profits or gains," and that the case was within the principle of *Last* v. *London Insurance Corporation* (1885), L. R. 10 App. Cas. 438.

Application of the Rule to Participating Policies in a Mutual Insurance Concern.

1889. *New York Life Insurance Co.* v. *Styles*, L. R. 14 App. Cas. 381.

A life insurance company had no shares or shareholders. The only members were the holders of participating policies, each of whom was entitled to a share of the assets and liable to all losses. A calculation was made by the company of the probable death rate among the members, and of the probable expenses and other liabilities, and the amount claimed for premiums from members was commensurate therewith. An account was annually taken

and the greater part of the surplus of such premiums over expenditure referable to these policies was returned to the policy holders as bonuses, either by addition to the sums insured or in reduction of future premiums. The remainder of the surplus was carried forward as funds in hand to the credit of the general body of the members. It being admitted that the income derived by the company from investments, and from all transactions with persons not members, was assessable to income tax,

Held, that no part of the premium income received under participating policies was liable to be assessed to income tax as profits or gains under Schedule (D.); and that *Last* v. *London Assurance Corporation*, L. R. 10 App. Cas. 438, was distinguishable, the income in that case being derived from transactions with persons not members, and not (as in the present case) from mutual insurances between members only.

The distinction between *Last* v. *London Assurance Corporation* and *New York Life Insurance Co.* v. *Styles*:—

"The main and, to my mind, the essential difference between *Last* v. *London Assurance Corporation* and the present case consists in the fact that in this case the policy holders are not outsiders, because they, and they alone, are members of the company": Lord Watson in *New York Life Insurance Co.* v. *Styles*.

The distinction between *Equitable Life Assurance Society of the United States* v. *Bishop* and *New York Life Insurance Co.* v. *Styles*:—

"In *Styles' Case* the whole of the surplus was appropriated to the reduction of the cost of insurance. In the present case it is not true to say that the whole of the surplus is used in reduction of the cost of insurance, because there is some of it paid to the shareholders of the company, who are entirely different people from the members of the mutual insurance body. They, it is true, are only shareholders in a company which, in a sense, came into existence for the purpose of working out the relations of the members of the mutual insurance to one another; but they are, at the same time, something different, and they receive moneys as profit in which the insured members have no interest whatsoever, that is to say, they receive the difference between the four per cent. and the seven per cent. clearly as profits going into their pockets. That difference between four per cent. and seven per cent. on the 20,000*l.* deposit provided by the shareholders does not differ in kind one jot from the one-third profit that went to the company in *Last's Case*, and I agree, therefore, to the full, that this case is really governed by *Last's Case*": Vaughan Williams, L. J., in *Equitable Life Assurance Society of the United States* v. *Bishop*, *supra*.

1889. *Scottish Union and National Insurance Co.* v. *Inland Revenue*, 16 R. 461; 26 S. L. R. 330; 2 Tax Cas. 551.

In a question as to the assessment of income tax under the Income Tax Act, 1842, Schedule (D.), on the profits and gains of a company carrying on the business of fire and life insurance:—

Held:—1. That the net profits and gains from the two branches of the business must be massed together as one undivided income assessable according to the rules applicable to the first case under Schedule (D.).

3. That as fire insurance policies are contracts for one year only, the premiums received for the year of assessment, or on an average of three years, deducting losses by fire during the same period, and ordinary expenses, may be fairly taken as the profits and gains of the company without making any allowance for the balance of annual risks unexpired at the end of the financial year.

4. That the profits or gains upon the life business could be ascertained by actuarial calculation only, and that this actuarial calculation might be obtained by taking the result of the quinquennial investigation prescribed by statute, or of the periodical investigation in use in companies established before the statute, or by an investigation covering the three years prescribed by Schedule (D.) of the Income Tax Acts (followed in 1907, *General Accident Assurance Corporation* v. *Inland Revenue*, 44 S. L. R. 792; 9 F. 1004).

BUILDING SOCIETIES.

Memorandum of Alternative Arrangements sanctioned by the Board of Inland Revenue with respect to Income Tax in the case of Building Societies.

Arrangement A.

1. All interest to be exempted where the borrowing member is exempt by reason of his total income from all sources not exceeding 160*l.*, the society undertaking to see that the borrowers make the usual claim to the surveyor of taxes for the district in which they reside, and otherwise afford facilities to the surveyor or surveyors for the requisite verification of the claims.

2. Where the borrowers are not so exempt, the properties on which the interest is secured by mortgage, or otherwise, to be retained in charge according to their respective annual values, and the society to allow the borrower to deduct the tax applicable to the interest.

3. All property in the society's hands as mortgagees in possession to be exempted, except as to ground or lease rents, if any.

4. The society to furnish a statement, to be verified by the Board's surveyor of taxes once a year, of the interest paid or credited to depositors and members whose incomes exceed 160*l.* a year, from whom the society would have the right to deduct the tax, whether the society exercised the right or not.

5. The society to furnish a list of the interest received from the borrowers to whom the society has allowed the tax, with all necessary particulars of the properties assessed, and vouchers, in the shape of certificates of deduction of the tax on the annexed form No. 185.

6. Where the total interest received (par. 5), on which the society has allowed the tax, exceeds the total interest paid or credited (par. 4), and on which the society has the right to retain the tax, the society to be repaid the duty on the difference; and where the converse is the case, that is, where the tax which ought to be retained by the society exceeds the tax allowed by the society, the society to render a return of the difference for assessment under Schedule (D.) of the Income Tax Acts.

Arrangement B.

1. The society consents to be directly assessed under Schedule (D.) of the Income Tax Acts upon the amount paid or credited in the year preceding the year of assessment for, or in respect of, dividends on shares, bonuses, and deposit interest. One-half of the total amount to be charged with income tax and one-half allowed to cover exemptions.

In consideration of such direct assessment:—

2. All property in the society's hands as mortgagees in possession, to be exempted, except as to ground or lease rents, if any.

3. A borrower whose total income from all sources does not exceed 160*l.* is not to be charged for mortgage interest: if charged, the duty assessed in respect of the mortgage interest is either to be allowed as a double assessment or repaid by the Board of Inland Revenue.

4. A borrower, not entitled to exemption, to be repaid by the Board of Inland Revenue such portion of the duty charged on his property as is applicable to mortgage interest. Application for repayment to be made to the Board, and supported by a certificate from the secretary of the society as to the amount of mortgage interest paid for the year of assessment; or the amount of interest so certified may be allowed from the assessment.

5. Investors and depositors not to be charged for the dividends or interest they receive: if charged, on proof thereof, to be entitled to relief.

6. When required, any society accepting this arrangement to permit any duly appointed officer of the Board to test the accuracy of the amount returned for Schedule (D.) Assessment, or to verify the correctness of any certificate given under the arrangement.

N.B.—*These arrangements have been sanctioned by the Board for the convenience of building societies and their members. It should be noted that societies registered under the Building Societies Acts* are not exempt from income tax.

Profits from a Rise in the Value of Investments.

1889. *Northern Assurance Co.* v. *Inland Revenue*, 16 R. 461; 26 S. L. R. 330; 2 Tax Cas. 551.

Where a gain is made by a company (within the year of assessment or the three years prescribed by the Income Tax Act, Schedule (D.)), by realizing an investment at a larger price than was paid for it, the difference is to be reckoned among the profits and gains of the company.

1893. *Scottish Investment Trust Co.* v. *Surveyor of Taxes*, 21 R. 262; 31 S. L. R. 219; 3 Tax Cas. 231.

The memorandum of association of a company stated that its objects were to raise money by share capital and invest the same in stocks and shares, to vary "the investments of the company, and generally to sell, exchange, or otherwise dispose of, deal with, or turn to account, any of the assets of the company."

Held, that gains made by the company by realizing investments at larger prices than those paid for them were to be reckoned as "profits and gains" of the company, in the sense of the Property and Income Tax Act, 1842, Schedule (D.).

The meaning of the words "set up and commenced."

"The proviso in rule 1 of Schedule (D.) does not apply to a mere change in the individuals constituting the firm or company, but applies to the setting up of an adventure or concern; and I think that the words 'set up' and 'commenced' apply strictly to that, and it cannot be said to be 'set up' or 'commenced,' because there is a change in the partnership carrying on identically the same adventure or concern. On this question I do not feel much doubt. It appears to me that the words 'trade, manufacture, or concern' apply to the undertaking, and have no reference to the individuals who carry it on": Grove, J., in *Ryhope Coal Co.* v. *Foyer*.

Grove, J., in 1881, *Ryhope Coal Co.* v. *Foyer*, L. R. 7 Q. B. D. 494.

The Income Tax Act, 1842, Schedule (D.), Case I., Rules—

5 & 6 Vict. c. 35, s. 100. To whom the duty extends.

Second.—The said duty shall extend to every person, body politic or corporate, fraternity, fellowship, company, or society, and to every art, mystery, adventure, or concern carried on by them respectively, in the United Kingdom or elsewhere, as aforesaid; except always such adventures or concerns on or about lands, tenements, hereditaments, or heritages as are mentioned in Schedule (A.), and directed to be therein charged:

5 & 6 Vict. c. 35, s. 100. Deductions not to be allowed.

Third.—In estimating the balance of profits and gains chargeable under Schedule (D.), or for the purpose of assessing the duty thereon, no sum shall be set against or deducted from, or allowed to be set against or deducted from, such profits or gains on account of any sum expended for repairs of premises occupied for the purpose of such trade, manufacture, adventure, or concern, nor for any sum expended for the supply or repairs or alterations of any implements, utensils, or articles employed for the purpose of such trade, manufacture, adventure, or concern beyond the sum usually expended for such purposes according to an average of three years preceding the

year in which such assessment shall be made; nor on account of loss not connected with or arising out of such trade, manufacture, adventure, or concern; nor on account of any capital withdrawn therefrom; nor for any sum employed or intended to be employed as capital in such trade, manufacture, adventure, or concern; nor for any capital employed in improvement of premises occupied for the purposes of such trade, manufacture, adventure, or concern; nor on account or under pretence of any interest which might have been made on such sums if laid out at interest; nor for any debts, except bad debts proved to be such to the satisfaction of the Commissioners respectively; nor for any average loss beyond the actual amount of loss after adjustment; nor for any sum recoverable under an insurance or contract of indemnity.

"Profits or Gains."

1892, *Gresham Life Assurance Society* v. *Styles*, [1892] A. C. 323.

"When we come to the third rule, and the first of the rules 'applying to both the preceding cases,' it must be admitted that the words 'profits or gains' are not always used in their proper or ordinary sense. The third rule, for example, provides that, in estimating the balance of profits and gains chargeable under Schedule (D.), 'no sum shall be set against or deducted from, or allowed to be set against or deducted from, such profits or gains' on account of any sum expended for the repairs of trade premises, or for the supply, repairs, or alterations of trade implements beyond the sum usually expended for such purposes on an average of three years. Here it is obvious that the 'profits or gains' against which the cost of repairs is not to be set, or from which it is not to be deducted, cannot be profits or gains of the business properly so called. The subject-matter necessitates the conclusion that language is being employed loosely and inaccurately. The rule contemplates the making up of a balance-sheet, and deals with what may be put on the debit side of it. And the first rule 'applying to both the preceding cases' which commences with the same words as the rule I have just referred to, evidently requires a similar construction": Lord Herschell in *Gresham Life Assurance Society* v. *Styles*.

Diminishing or Exhausted Capital cannot be taken into account in estimating the Profits and Gains.

A. L. Smith, J., in 1885, *Gillatt and Watts* v. *Colquhoun*, 33 W. R. 261; 2 Tax Cas. 76.

"It seems to me that in the case of the *Coltness Iron Co.* v. *Black*, L. R. 6 App. Cas. 315, with regard to mining under Schedule (A.), the learned law lords who decided that case undoubtedly laid down that which seems to me to be as applicable to Schedule (D.) as to Schedule (A.), namely, that diminishing capital or exhausted capital cannot be brought into your profits and gains when making out your accounts, either under Schedule (D.) or Schedule (A.). But if that is not so with regard to the *Coltness Iron Co.* v. *Black*, it is clear to my mind that it is so with regard to *Forder* v. *Handyside*, and this case has been so far acted on by the legislature, because, by 41 & 42 Vict. c. 15, s. 12, they allowed depreciation of machinery to be brought into the balance-sheet made out by the traders under Schedule (D.), but left everything standing as it was before as regards depreciation or what not, where the law theretofore had applied": A. L. Smith, J., in *Gillatt and Watts* v. *Colquhoun*.

1888, *Smith* v. *Westinghouse Brake Co.*, 2 Tax Cas. 357.

"And I repeat what I said in the case of *Forder* v. *Handyside*, and I quite concur with what fell from my brother Smith in the case of *Gillatt and Watts* v. *Colquhoun* that you cannot bring in either depreciation or exhausted

expenditure as a debit against the assets. If the capital is lost, depreciated, or exhausted, you cannot bring it as a debit against the assets": Huddlestone, B., in *Smith* v. *Westinghouse Brake Co.*

CASES.

1880. *Watney* v. *Musgrave*, L. R. 5 Ex. D. 241.

The appellants, a firm of brewers, in order to increase the sale of their beer, and so to increase their profits, purchased the leases of public-houses, which they let to tenants, who covenanted to buy of them all the beer to be sold in such houses. The appellants, besides covenanting to pay fixed rents for the terms of years reserved by the leases, were obliged, in some instances, to pay premiums for such leases. They claimed in arriving, for the purpose of the income tax, at the balance of profits and gains of their trade, to be entitled each year to an allowance in respect of a portion of the amount so paid by them as premiums, on the ground that such allowance represented a portion of their capital exhausted during the year in earning profits.

Held, that the appellants were not entitled to any allowance in respect of the premiums.

1855. *Gillatt and Watts* v. *Colquhoun*, 33 W. R. 258; 2 Tax Cas. 76.

A trader pays a ground rent of 250*l.* per annum for his business premises, having already paid as a premium for a lease of twenty-two years the sum of 34,000*l.* In order to ascertain the profits, you must take from the gross profits the annual expenditure, one element of which is the rent paid for the premises. It was found that the annual value of the premises under Schedule (A.) was 1,000*l.*

Held, that the proper sum to be deducted from the gross profits was 1,000*l.*; for the depreciation in the lease was capital exhausted, and could not be deducted.

1888. *Smith* v. *Westinghouse Brake Co.*, 2 Tax Cas. 357.

A company, to extend its business, opens a manufactory and fits machinery, but subsequently closes it, removes a portion of the machinery, and re-opens the manufactory on a smaller scale, and thereby loses a portion of the original expenditure.

Held, that this is a loss of capital, and no deduction can be allowed.

1891. *Arizona Copper Co.* v. *Surveyor of Taxes*, 19 R. 150; 3 Tax Cas. 149; 29 S. L. R. 134.

A company borrowed a large sum of money, and undertook, along with repayment of the capital sum, to pay the lenders a bonus of ten per cent. thereon.

Held, that in estimating the balance of profits and gains, the company could not deduct the bonus.

1905. *Granite Supply Association, Ltd.* v. *The Solicitor of Inland Revenue*, 43 S. L. R. 65; 8 F. 55; 5 Tax Cas. 168.

A company, engaged in the business of buying and selling granite, found it necessary to acquire a larger yard. It removed stones and cranes from the old to the new yard, re-erecting the cranes there.

Held, that the company was not entitled to deduct the cost of the transference of stones to the new yard and the re-erecting of the cranes.

Alianza Co. v. *Bell*, [1906] A. C. 18.

Rule 3 prevents a deduction for wasting capital, such as the worked-out deposits of a nitrate company.

Southwell v. *Savill Brothers, Ltd.*, [1901] 2 K. B. 349.

To obtain new licences a brewery company was compelled to surrender old ones. In order to have old licences available, it was in the habit of paying

annual sums to holders of licences for the right to call for a surrender. In the case of unsuccessful applications for new licences the company claimed to deduct the annual sums so paid and other expenses incidental to the application as necessary trade expenses.

Held, that the annual sums and expenses were employed as capital in the trade, and the deduction could not be allowed.

In the following case the deduction was allowed on the ground that the deduction claimed was—

Money used in the Business and not Capital invested.

Reid's Brewery Co. v. *Male*, [1891] 2 Q. B. 1.

The appellants carried on the business of brewers, and also, as a branch or adjunct of their brewery business, the business of bankers and money-lenders, and in the course of such business lent money to their customers on security, and received money on deposit from their customers, who were allowed to draw bankers' cheques or orders on the appellants. In no case was any loan or advance made by way of permanent investment, but the same was taken only in connection with the current dealings and transactions of the customer with the appellants, and, in the event of such current dealings or transactions terminating, the loan or advance was required to be paid off and the account closed. The profits of the brewery were largely increased by the addition of the banking and money-lending business, and the loans were necessary to enable the appellants to realize profits. They claimed to deduct from an assessment to the income tax on profits from trade bad debts in respect of loans to customers.

Held (distinguishing *Watney* v. *Musgrave*, L. R. 5 Ex. D. 241), that, on the facts above stated, the appellants must be taken to have carried on one business only, that the money advanced to customers was used in the business and not capital invested, and that the appellants were entitled to the deduction claimed.

1880, *Watney* v. *Musgrave*, L. R. 5 Ex. D. 241.

Distinguishing this case from *Watney* v. *Musgrave*, Pollock, B., said:—

"I find no real difficulty in *Watney* v. *Musgrave* if it is confined to the case itself. It might be an advantageous investment of the capital of brewers to purchase out of that capital a number of cottages, and, between partners, such purchases might be taken into account before they arrived at the profit of the business. That is the case put by Hawkins, J., of houses built in order that the inhabitants might deal with the brewery. In such a case the money could not be said to be money expended in the business of brewers before they made their money. I admit that there are some observations by Kelly, C. B., which might militate against our present decision; but he probably did not anticipate cases which might arise in the future on somewhat different facts."

"Sum employed or intended to be employed as Capital."

1875. *Addie* v. *Solicitor of Inland Revenue*, 2 R. 431; 12 S. L. R. 274; 1 Tax Cas. 1.

In computing profits, a tenant of minerals is not entitled to make deductions from the gross receipts of sums necessary to replace capital expended in sinking new pits.

This was one of the concerns in No. III. of Schedule (A.), which are to be assessed under Schedule (D.) by 29 & 30 Vict. c. 36, s. 8. It has now been held, in *Coltness Iron Co.* v. *Black* (1881), L. R. 6 App. Cas. 315, that the rule in Schedule (D.) which prevents deductions for sums employed as capital is not applicable to such a concern: see p. 137. We have, however, given the case because the decision is in its result correct, and if the rule were applicable, the reason for the judgment, which is based on the above rule, seems sound. These observations also apply to *Forder* v. *Handyside*, *infra*.

1887. *City of London Contract Corporation* v. *Styles*, 4 T. L. R. 51; 2 Tax Cas. 239.

The corporation purchased a business consisting of partially executed and wholly unexecuted contracts, and the total purchase-money was 180,000*l*.

They claimed to deduct 80,000*l.* from the net annual profits as being a portion of the purchase-money, and 20,000*l.* for sums paid away by them to the shareholders of other companies as interest guaranteed by the corporation from which no income tax had been deducted.

Neither deduction was allowed.

Royal Insurance Co. v. *Watson*, [1897] A. C. 1.

Where a trading company in purchasing the business of another company agrees to take into its service the manager of the purchased company at a fixed salary, or if they dismiss him to pay him a stipulated sum, and the purchasing company take the manager into their service, but shortly afterwards dismiss him and pay the agreed sum, the money so paid is capital and not income, and forms part of the purchase-money of the business acquired, and cannot therefore be deducted from the gross income of the year in which it is paid in calculating the amount assessable to income tax.

A Deduction is not allowed for Expenses incurred in raising Capital.

1894. *Texas Land and Mortgage Co.* v. *Hotham*, 10 T. L. R. 337; 63 L. J. Q. B. 496; 10 R. 398; 1 Manson, 429.

A company raised capital by debentures and incurred expenses in placing the debentures.

Held, that these expenses could not be deducted.

The Inland Revenue have by a circular stated that they will make an allowance for a renewal of debenture capital, but the first issue is considered a capital charge.

"Repairs of Premises occupied for the purpose of such Trade, &c."

The premises must be occupied by the person assessed.

Brickwood & Co., Ltd. v. *Reynolds*, [1898] 1 Q. B. 95 (C. A.).

A firm of brewers purchased licensed houses, which they let to tenants, who contracted to buy from them all the beer, wines, and spirits to be sold therein. Thereby the brewer's trade was increased. They executed the repairs to these houses.

Held, they were not entitled to a deduction from their income tax in respect of these repairs.

A Deduction is not allowed for Sums necessary to replace Capital lost by Depreciation of Buildings.

Capital lost by depreciation of buildings.

Although a deduction is allowed for repairs of premises up to a certain limit (see the rule and, 1876, *Forder* v. *Handyside*, L. R. 1 Ex. D. 233), no deduction will be allowed for the above because it comes under the head of capital exhausted.

1875. *Addie* v. *Solicitor of Inland Revenue*, 2 R. 431; 12 S. L. R. 274; 1 Tax Cas. 1.

In computing profits, a tenant of minerals is not entitled to make deductions from the gross receipts to replace capital lost by depreciation of buildings and machinery.

1876. *Forder* v. *Handyside*, L. R. 1 Ex. D. 233.

A company carrying on business as iron founders set apart, in accordance with their articles of association, a sum of money from their net profits for depreciation of buildings, fixed plant and machinery, and claimed, in making a return under Schedule (D.) of their annual profits or gains, to deduct this amount.

Held, that such a deduction was contrary to 5 & 6 Vict. c. 35, s. 100, Case I., Rule 3, as the amount set aside was in effect an addition to capital. (See the remarks, *supra*, on these two cases.)

In *Forder* v. *Handyside*, it was admitted in the argument that the company had written off a certain amount for the repairs actually executed, and that they might properly do so.

It will be observed that in these cases a deduction was not allowed for sums necessary to replace capital lost by depreciation of machinery and plant. This has now been altered.

Loss "connected with or arising out of such Trade," &c.

1886. *Inland Revenue* v. *Watt*, 23 S. L. R. 403; *Brown* v. *Watt*, 13 R. 590; 2 Tax Cas. 143.

A farmer, who was assessed under Schedule (B.) upon the rent in respect of the occupation of his farm, and who was also assessed under Schedule (D.) in respect of the annual profits arising from his business as a seed merchant, was not entitled, under sect. 100, Schedule (D.), first Case, Rule 3, to deduct from the profits arising from his business as seed merchant the loss which he sustained as tenant of the farm. This was not a loss "connected with or arising out of the trade" of seed merchant.

Strong & Co., of Romsey, Ltd. v. *Woodifield*, [1906] A. C. 442.

A sum recovered by a customer from a brewery company as the owners of an inn for negligence causing personal injuries through the fall of a chimney is not a loss connected with or arising out of their trade.

"It does not follow that if a loss is in any sense connected with the trade it must always be allowed as a deduction; for it may be only remotely connected with the trade, or it may be connected with something else quite as much as or even more than with the trade. I think only such losses can be deducted as are connected with in the sense that they are really incidental to the trade itself. They cannot be deducted if they are mainly incidental to some other vocation or fall on the trader in some character other than that of trader": Lord Loreburn, *S. C.*

Diminished value of machinery and plant. 41 & 42 Vict. c. 15, s. 12.

A Deduction is allowed for Diminished Value of Machinery or Plant.

The Customs and Inland Revenue Act, 1878—

12. Notwithstanding any provision to the contrary contained in any Act relating to the income tax, the Commissioners for General and Special Purposes shall, in assessing the profits or gains of any trade, manufacture, adventure, or concern in the nature of trade, chargeable under Schedule (D.), or the profits of any concern, chargeable by reference to the rules of that schedule, allow such deduction as they may think just and reasonable as representing the diminished value by reason of wear and tear during the year of any machinery or plant used for the purposes of the concern, and belonging to the person or company by whom the concern is carried on; and for the purpose of this provision, where machinery or plant is let to the person or company by whom the concern is carried on, upon such terms that the person or company is bound to maintain the machinery or plant, and deliver over the same in good condition at the end of the term of the lease, such machinery or plant shall be deemed to belong to such person or company. And where any machinery or plant is let upon such terms that the burden of maintaining and restoring the same falls upon the lessor, he shall be entitled, on claim made to the Commissioners for General or Special Purposes, in the manner prescribed by sect. 61 of 5 & 6 Vict. c. 35, to have repaid to him such a portion of the sum which may have been assessed and charged in respect of the machinery or plant, and deducted by the lessee on payment of the rent, as shall

represent the income tax upon such an amount as the said Commissioners may think just and reasonable, as representing the diminished value by reason of wear and tear of such machinery or plant during the year: Provided that no such claim shall be allowed unless it shall be made within twelve calendar months after the expiration of the year of assessment.

The Finance Act, 1907— 7 Ed. 7, c. 25.

Provisions with respect to deductions for wear and tear of machinery or plant.

26.—(1) For the purpose of enabling deductions for wear and tear to be allowed by the additional Commissioners, claims in respect of those deductions shall be included in the annual statement required to be delivered under the Income Tax Acts of the profits or gains of the concern for the purpose of which the machinery or plant is used, and the additional Commissioners in assessing those profits and gains shall make such allowances in respect of those claims as they think just and reasonable.

(2) No deduction for wear and tear or repayment on account of any such deduction shall be allowed in any year if the deduction when added to the deductions allowed on that account in any previous years to the person by whom the concern is carried on will make the aggregate amount of the deductions exceed the actual cost to that person of the machinery or plant, including in that actual cost any expenditure in the nature of capital expenditure on the machinery or plant by way of renewal, improvement or reinstatement.

(3) Where as respects any trade, manufacture, adventure, or concern full effect cannot be given to the deduction for wear and tear in any year owing to there being no profits or gains chargeable with income tax in that year, or owing to the profits or gains so chargeable being less than the deduction, the deduction or part of the deduction to which effect has not been given, as the case may be, shall, for the purpose of making the assessment for the following year, be added to the amount of the deduction for wear and tear for that year and deemed to be part of that deduction, or if there is no such deduction for that year, be deemed to be the deduction for that year, and so on for succeeding years.

(4) In this section the expression "deduction for wear and tear" means the deduction allowed, or which would be allowed, under section twelve of the Customs and Inland Revenue Act, 1878, as representing the diminished value, by reason of wear and tear during the year, of machinery or plant used for the purposes of any trade, manufacture, adventure, or concern. 41 & 42 Vict. c. 15.

We have retained the words "diminished value" in our heading because a somewhat restricted meaning has been attached to them.

Lord Justice Clerk in 1880, *Caledonian Railway* v. *Special Commissioners of Income Tax*, 8 R. 96; 18 S. L. R. 85; 1 Tax Cas. 487.

In *Caledonian Railway* v. *Special Commissioners of Income Tax*, Lord Justice Clerk said: "The railway company complain that, as far as this plant is concerned, while its value has been diminished by wear and tear during the five years in question, no allowance has been made on this head by the Commissioners in terms of the statute. As a matter of fact, I take the last statement to be true. The Commissioners have made no allowance for the diminution of the value of this plant during the five years in question, while it cannot be disputed that after a period of use the engines and carriages are not, and probably cannot be, as valuable a commodity for sale as they were when new. . . . If the Commissioners assumed that the expression 'diminished value' in the 12th section of the Act of 1878 signifies value for the purpose for which it was intended in a going concern, I cannot say they were wrong in so holding. I do not think that the words had any reference to the value of the plant as merchantable or marketable articles, because its capacity to earn income constitutes its sole value to the railway company, and is the only quality contemplated under the statutes relating to the taxation of income."

And he also said—

"During the first five years of the life of a railway locomotive or carriage it requires no repairs, and is therefore of the same value—that is, capable of earning the same amount of income as when it was new."

The result of this decision is that if no repairs are required no deduction will be allowed, though the market value of the plant may have diminished.

The effect of the statute is thus greatly reduced. We have already seen that where repairs of plant were actually executed a deduction was allowed for them before the statute (*Forder* v. *Handyside*). Therefore the only effect of the statute is to allow a deduction for repairs of plant which are necessary, but have not been executed.

The practice is, however, more liberal than this strict interpretation of the statute, but is not uniform, and appears to depend on the locality and on the individual Commissioners.

The following statement was given in evidence before the Departmental Committee on Income Tax:—

STATEMENT SHOWING THE SPECIAL RATES OF ALLOWANCE FOR THE WEAR AND TEAR OF MACHINERY AND PLANT.

Nature of Industry and District.	Rate p.c. of Allowance.	Remarks.
Boot Trade:		
Leicester	7½	On full value.
Brewers:		
Cardiff	5	On written-down value.
Collieries:		
Cardiff	5	Do.
Coal Exporting Plant:		
Cardiff	5	Do.
Dyers and Trimmers:		
Leicester	7½	On full value.
,, ...	10	If justified on enquiry.
Engineers:		
Leicester	7½	On full value.
Cardiff	5	On written-down value.
Hosiery:		
Leicester	7½	On full value and higher rate if justified on enquiry.
Nottingham	5	On fixed machinery.
Lace Making:		
Nottingham	5	On full value.
,, ...	7½	On written-down value.
Looms and Spinning Machines:		[*See also* "*Spinning Machinery*," *&c., and* "*Weaving.*"]
Huddersfield	5	On motive plant.
,, ...	7½	On spinning, dyeing, carding and finishing machinery.
Oldham	5	On engines, boilers and gearing.
,, ...	7½	On spinning machines.
Newspaper and Printing:		
Dundee	10	On printing machinery running double shifts.
Glasgow	6	On ruling and bookbinding machines.
,, ...	6	On type, linotype machines, &c.

Statement showing the Special Rates of Allowance—*continued.*

Nature of Industry and District.	Rate p.c. of Allowance.	Remarks.
Newspaper and Printing—contd.:		
Glasgow	7½	To include renewal of type not charged to revenue.
Nottingham	8½	On written-down value.
Cardiff.....	5	On do.
,, ...	7½	On do. For newspaper printing machines.
,, ...	15	On type.
Sewing Machines:		
Glasgow	10	On machines used in Clothing Factories. Replacements all charged to capital.
Nottingham	10	
Ship Repairing and Shipbuilding Plant:		
Cardiff.....	5	On written-down value.
Spinning Machinery and Woolcombs:		[*See also "Looms, &c.," and "Weaving."*]
Bradford.....	7½	On written-down value, when machinery running day and night. Allowance reduced when heavy amounts charged for repairs and renewals.

Nature of Industry and District.	Rate p.c. of Allowance.	Remarks.
Tramways:		
Glasgow	4½	Average over all: Ducts ..... 3% Cables ..... 3% Poles and rosettes ..... 2% Section boxes .. 3% Telephones .... 5% Depôt fittings .. 2% Electric power plant ..... 5% Sub-stations plant ..... 5% Car works machinery ..7½% Permanent way plant .....7½% Rolling stock .. 5% Punches .....7½% Furniture..... 5%
Weaving:		[*See also "Looms, &c.," and "Spinning Machinery."*]
Bradford.....	5	On looms.
Blackburn	5	On fixed boilers, engines and fixed machinery.
,, ...	7½	On loose machinery, &c.
Huddersfield	7½	On spinning, weaving, carding, finishing, and condensing machinery.
,, ...	5	On motive plant, shafting, &c.

It would appear from the following letter that the value of obsolete machinery when replaced by new machinery is also allowed for.

Copy of letter from the Chancellor of the Exchequer, dated May 28th, 1897, to the Secretary of the Association of Chambers of Commerce on the subject of allowance for wear and tear of machinery.

Treasury Chambers,
Whitehall, S.W.,
May 28th, 1897.

DEAR SIR,

The Chancellor of the Exchequer has had under his consideration the memorial of the Association of the Chambers of Commerce of the United Kingdom, which you sent him at the beginning of April.

The chief points raised in the memorial are as follows:—

1. That the allowances in respect of repairs and depreciation of machinery are insufficient, and the methods of calculating such depreciation are unsatisfactory.
2. That no allowance is made for the cost of replacing machinery which has become obsolete.

As to the first point, I am to say that, as the law now stands, deductions are allowed both in respect of expenditure incurred in repairs or alterations of machinery according to an average of the three years preceding the year

of assessment, and also in respect of the diminished value of machinery by reason of wear and tear during the year. The allowance of these deductions is in the hands of the District or Special Commissioners, as the case may be, and they have to decide in each case as it arises the adequacy of the deductions allowed.

As to the second point, I am to say that the Board of Inland Revenue have given instructions to their surveyor at Leicester, which is particularly referred to in the memorial, that, where a claim is made in respect of the introduction of more modern machinery in a factory, no objection is to be taken to the allowance, as a deduction from the assessable profits of the year, of so much of the cost of replacement as is represented by the existing value of the machinery replaced. Any excess in the cost of the new machinery over the actual present value of the old, is in addition to the capital of the business, and cannot properly be regarded as a charge upon revenue for the purposes of income tax assessment.

I am to add that similar instructions will be given to surveyors in other districts when this question arises there.

I am, Sir,
Your obedient servant,
(Signed) W. A. MOUNT.

The Secretary,
Association of Chambers of Commerce.

CASES.

1880. *Caledonian Railway* v. *Special Commissioners of Income Tax*, 8 R. 89; 18 S. L. R. 85; 1 Tax Cas. 487.

The Commissioners, in assessing a railway company under Schedule (D.) of the Income Tax Act, 1842, for income tax, allowed a deduction from income of sums expended or set aside for renewal and repairs of plant during the year. The company demanded a further deduction under sect. 12 of the Act of 1878 of a sum representing the diminished value by reason of wear and tear of new additional plant purchased within five years which had hitherto required no repairs. The Commissioners refused the additional deduction, holding that the deduction allowed to the railway company from year to year for actual renewal and repairs of the plant was all to which they were entitled.

The railway company appealed, but the Court declined to allow the additional deduction.

It will be seen that there is really no hardship on the railway company. When the repairs or renewals are necessary they are allowed for. They only diminish the income of the company when they are executed. It is true the capital of the company may be diminished by the wear and tear of the stock though no repairs or renewals are necessary; but the tax is a tax on income, not on capital.

1889. *Highland Railway Co.* v. *Special Commissioners of Income Tax*, 16 R. 950; 26 S. L. R. 657; 2 Tax Cas. 485.

A railway company, in making their return for assessment of income tax, claimed as deductions from the revenue of the year of assessment—

(1) A sum expended upon the improvement of the permanent way of a line of railway which they had acquired and amalgamated with their concern, in order to bring it up to the standard of the rest of the line.

(2) A sum representing the cost of the extra weight in relaying part of the main line with steel in place of iron rails, and with chairs of additional weight.

In the books of the company these sums were charged against capital.

Both claims were disallowed.

1894. *The Burnley Steamship Co.* v. *Aiken (Surveyor of Taxes)*, 31 S. L. R. 803; 21 R. 965; 3 Tax Cas. 275.

Under sect. 12 of the Customs and Inland Revenue Act, 1878, a shipowner is not entitled to an allowance for depreciation in the value of his ship caused by better vessels being built. 41 Vict. c. 15.

See, also, the cases on deductions under Schedule (A.), No. III., *ante*, p. 140.

Depreciation of Ships.

There has been much litigation over this subject, and much difficulty has been experienced in attempting to arrive at a basis agreeable alike to the shipowner and the Revenue authorities. In the *Peninsular and Oriental Steam Navigation Co.* v. *Lee* the Commissioners had allowed the company 6 per cent. on the diminished value. This means that the Commissioners took the original cost of the vessel, wrote off 6 per cent. for every year of the life of the vessel, and fixed the depreciation at 6 per cent. of the value of the vessel in the year of assessment. 79 L. T. 118.

They based this depreciation on the estimated life of a vessel of twenty-eight years, and the estimated duration of service in the fleet of the company of seventeen years.

The company claimed 5 per cent. on the original cost of the vessel.

It was held that the question was one of fact, and the appeal was dismissed.

So in *Leith, Hull and Hamburg Steam Packet Co.* v. *Bain*, the Commissioners fixed 5½ per cent. on the diminished value, and the attempt to alter this on appeal failed. 3 Tax Cas. 560.

In the *Cunard Steamship Co.* v. *Coulson*, the Commissioners based their estimate on the depreciation during the year immediately preceding the year of assessment, and this was held to be justifiable. [1899] 1 Q. B. 865.

In *Leith, Hull and Hamburg Steam Packet Co.* v. *Musgrave*, the Commissioners fixed 5½ per cent. on the diminished value, on the ground that 5 per cent. on such value, if placed out at interest each year at 3 per cent., will amount to the full value of the vessel at the end of twenty-two years (the estimated life of the vessel). It was held by the Court of Session that the Commissioners should not have considered the money as put out at interest, and the appeal was allowed. 1 F. 1117; 36 S. L. R. 745; 4 Tax Cas. 80.

But in the *Peninsular and Oriental Steam Navigation Co.* v. *Leslie*, Wright, J., in the Divisional Court, differed from this view. In the Court of Appeal, however, the case was sent back to the Commissioners for a further statement. This further statement showed that the Commissioners had not made the allowance on a principle based on a sinking fund calculated at either simple or compound interest, and that they had simply found a certain sum to be reasonable. There being, therefore, no question of law, the appeal was dismissed. 82 L. T. 137; 4 Tax Cas. 177.

In the result all these authorities have not made the subject much clearer. It seems, however, that if the Commissioners fix a sum without regard to any particular principle they cannot be interfered with, but, if they decide on a principle, the principle, if unsound, may be attacked.

The following general principle has been enunciated by the Revenue authorities.

Rates of depreciation on ships.

It has been agreed by the Commissioners at the principal ports that, with the view to secure uniformity of practice, the following "fixed normal rate of allowance" for depreciation shall have effect, viz.:—

On steamers, 4 per cent. ... } On the prime cost, *i.e*, the original
On sailing vessels, 3 per cent. } cost price of the vessel.

Structural improvements.

The net expenditure on the renewal of engines or boilers, as well as the net cost of any structural improvements, such as the lengthening or strengthening of a ship, should be added to the prime cost of the ship, and depreciation allowed upon the total amount.

Total allowance not to exceed total cost.

Allowances at these rates should be made year by year until the total cost of the vessel, less the breaking up value (which may be taken at the rate of 4 per cent. in the case of steamers and 3 per cent. in the case of sailing vessels), has been allowed.

It will be necessary to ascertain, in the case of each ship, the total amount of wear and tear allowances made in assessments for previous years, and to keep a record of the annual allowances, so that such allowances may be discontinued when the total cost has been recouped.

Allowances on vessels changing hands.

Should any ship change hands after allowances equal to her total cost (less breaking up value) have been made, the question of any future allowance which may be claimed for wear and tear should be specially dealt with by the Commissioners, as should also any case in which, from exceptional circumstances, the normal rates may be insufficient to meet the requirements.

Book value unrealised on sale.

Where a ship is sold, and the amount realised does not reach the book-value (*i.e.*, the prime cost less the depreciation allowances), the difference is not to be treated as a loss in trade, but must be regarded as a loss of capital. In like manner, should a higher sum be realised than that which appears as the depreciated value, the excess is not to be deemed a trade profit.

[The case of *John Hall, Junior & Co.* v. *Rickman*, [1906] 1 K. B. 311, decided that the shipowner is entitled to an allowance for depreciation, notwithstanding that he has already, in former years, received allowances amounting in all to 96 per cent. of the prime cost of the ship, but this is now altered by the Finance Act, 1907, s. 25 (2), *supra*.]

1897. *Leith, Hull, and Hamburg Steam Packet Co.* v. *Bain*, 3 Tax Cas. 560.

The Commissioners allowed a deduction of 5½ per cent. from the written down value of the whole fleet in the company's books, as representing the diminished value of the ships by reason of wear and tear during the year of assessment. The company claimed a reduction of the assessment, on the ground of overcharge, consequent upon insufficient allowance for depreciation.

The claim was not allowed.

1898. *Peninsular and Oriental Steam Navigation Co.* v. *Lee*, 79 L. T. 118.

The appellant company claimed 5 per cent. on the original cost of the ships in their fleet. The Commissioners found that the average duration of the service of the ships in the fleet was seventeen years, though the average life of the ships was twenty-eight years, and that an allowance of 6 per cent. on the diminished value of the fleet for the year of assessment, arrived at by taking the original cost of each vessel and writing it down year by year at the rate of 6 per cent. on the diminishing value was a sufficient allowance to cover the diminished value by reason of wear and tear during the year.

The appellant's figures were 253,893*l*., and the Commissioners' figures 185,440*l*.

Held, dismissing the appeal, that the question was substantially one of fact.

Cunard Steamship Co. v. *Coulson*, [1899] 1 Q. B. 865.

The Commissioners of Income Tax, when estimating the deduction to be allowed from the profits of a trade under sect. 12 of the Customs and Inland Revenue Act, 1878, are not bound to take an average of the depreciations during the three preceding years, but may adopt as their estimate the amount of the depreciation during the year immediately preceding that of assessment.

1899. *Leith, Hull, and Hamburg Steam Packet Co.* v. *Musgrave*, 1 F. 1117; 36 S. L. R. 745; 4 Tax Cas. 80.

The life of a steamer being assumed to be twenty-two years, a deduction of 5 per cent. on the diminishing value of the vessel will, if placed out at interest at 3 per cent., amount to the full value of the vessel at the end of the twenty-two years. The Commissioners, on this basis, allowed a deduction of 5½ per cent. for wear and tear of certain passenger and cargo vessels.

Held, that they should not have considered the money as put out at interest.

"In my opinion the Commissioners are bound to fix a just and reasonable sum by way of deduction for wear and tear, and to take the average life of a steamer, and over that period to spread the original cost, appears a very just and reasonable way of ascertaining what that allowance or deduction should be. But that deduction, when fixed, should be allowed to the

appellants in full, apart from all considerations of the use they can or may make of it": Lord Trayner.

1900. *British India Steam Navigation Co.* v. *Leslie*, 17 T. L. R. 104; 4 Tax Cas. 257.

The Commissioners stated that they did not make an allowance for depreciation on a principle based on a sinking fund, calculated either at compound or simple interest, but they found that a certain sum was sufficient.

Held, that in these circumstances, the discretion of the Commissioners could not be interfered with.

1900. *Peninsular and Oriental Steam Navigation Co.* v. *Leslie*, 82 L. T. 137; 4 Tax Cas. 177, in the Court of Appeal, is to the same effect as *British India Steam Navigation Co* v. *Leslie*. In the Divisional Court, Wright, J., seems to differ from the view taken by Lord Trayner in the passage of his judgment which we have cited.

1907. *Inland Revenue* v. *Western Steamship Co.*, 44 S. L. R. 715; 9 F. 1005.

A company partly insuring its own ships cannot deduct from its profits a sum transferred from the insurance fund to capital account to meet a loss incurred.

The Income Tax Act, 1842, Schedule (D.), Case I., Rules—

5 & 6 Vict. c. 35, s. 100. No deduction for annual interest.

Fourth.—In estimating the amount of the profits and gains arising as aforesaid no deduction shall be made on account of any annual interest, or any annuity or other annual payment payable out of such profits or gains.

This rule must be read in connection with sect. 102 of the Act.

The rule to be read with sect. 102. Lord Herschell in *Gresham Life Assurance Society* v. *Styles*, [1892] A. C. 322; 62 L. J. Q. B. 41. Profits or gains. Lord Herschell, *S. C.*

"The controversy mainly turns upon the construction to be put upon the fourth rule, which I have already quoted; but the 102nd section of the Act must be read in connection with it": Lord Herschell in *Gresham Life Assurance Society* v. *Styles*. And his lordship goes on to explain the relation between the rule and the section as bearing on the interpretation of the words "profits or gains" in the rule.

"That section, after enacting that income tax shall be charged upon all annuities, yearly interest of money, or other annual payments, provides that 'in every case where the same shall be payable out of profits or gains brought into charge by virtue of this Act, no assessment shall be made upon the person entitled to such annuity, interest or other annual payment, but the whole of such profits or gains shall be charged with duty on the person liable to such annual payment, without distinguishing such annual payment; and the person so liable to make such annual payment out of the profits or gains charged with duty' shall be entitled to deduct the income tax from the annual payment, and the person to whom payment is made is to allow such deduction. It was admitted that, reading this enactment in conjunction with the fourth rule, the prohibition contained in that rule only applied when the annuity was payable out of profits and gains brought into charge by virtue of the Act. What is the meaning of 'profits or gains,' as found in the concluding words of the fourth rule? Unless the context requires a different meaning, or the words appear to be used throughout the Act in another sense, I think they must be construed according to their ordinary signification. When we speak of the profits or gains of a trader, we mean that which he has made by his trading. Whether there be such a thing as profit or gain can only be ascertained by setting against the receipts the expenditure or obligations to which they have given rise."

Application of this rule. Lord Herschell, *S. C.*

In the same case Lord Herschell further says:—"I think the fourth rule was primarily designed to meet such a case as that in which a trader had contracted to make an annual payment out of his profits; as, for example, when he had agreed to make such a payment to a former partner, or to a person who has made a loan on the terms of receiving such payment. But for the rule, it might plausibly have been contended that in such a case a trader was only to return as his profits what remained after making such payment."

We shall now consider the cases in order of date:—

1883. *Alexandria Water Co.* v. *Musgrave*, L. R. 11 Q. B. D. 174.

An English company, carrying on their business in Alexandria, where their gains and profits were earned, were held to be properly assessed to the income tax in respect of the whole of the profits of the concern, without any deduction on account of the interest on the debenture bonds of the company paid to the holders of such bonds in Alexandria.

This case was commented on in *Gresham Life Assurance Society* v. *Styles* in the House of Lords, and their lordships approved of the decision though not of all the reasons for it.

1887. *Mersey Loan and Discount Co.* v. *Wootton*, 4 Times Law Rep. 164; 2 Tax Cas. 316.

The company paid interest on deposits and received a larger interest from their borrowers. They claimed to deduct the interest paid to their depositors from their profits and gains.

The claim was disallowed.

This case was said by Lord Herschell to be in conflict with his view in *Gresham Life Assurance Society* v. *Styles*, and is therefore wrongly decided.

Gresham Life Assurance Society v. *Styles*, [1892] A. C. 309.

A life assurance society, as part of its business, sold or granted annuities in consideration of a lump sum or premium paid down in the case of an immediate annuity, and of a similar payment or of periodical premiums in the case of a deferred or contingent annuity. They claimed to deduct from the amount of their profits chargeable with income tax the sums paid by them in discharge of the annuities so granted.

Held, that the claim was good.

Alteration in the law by 51 & 52 Vict. c. 8, s. 24 (3).

By the Customs and Inland Revenue Act, 1888, s. 24 (3), it is provided that the income tax on interest of money and annuities, though not payable out of profits and gains, shall be deducted by the person paying the same and shall be paid by him. Thus, a case like *Gresham Life Assurance Society* v. *Styles* would now be differently decided, for the society would be obliged to deduct the income tax from the annuities and pay it. Of course, there is no additional taxation on the assurance society, they are simply the conduit-pipe by which the annuitants pay their income tax.

1894. *Anglo-Continental Guano Works* v. *Bell*, 10 R. May, 261; 70 L. T. N. S. 670; 58 J. P. 383.

A trading company is properly assessed to income tax in respect of the whole of the profits of the concern, without any deduction on account of interest paid on short loans borrowed by the company to enable it to buy goods at cost instead of credit prices.

5 & 6 Vict. c. 35, s. 100.

The Income Tax Act, 1842, Schedule (D.), Case II.—

> Second case.—The duty to be charged in respect of professions, employments, or vocations, not contained in any other schedule of this Act.

Vocation.

"The word 'vocation' is analogous to 'calling,' a word of wide signification, meaning the way in which a man passes his life. . . . I think the word 'vocation' is not limited to a lawful vocation, and that even the fact of a vocation being unlawful could not be set up against the demand for income tax": Denman, J., in *Partridge* v. *Mallandaine* (*infra*).

"'Vocation' and 'calling' are synonymous terms": Hawkins, J., *S. C.*

1886. *Partridge* v. *Mallandaine*, L. R. 18 Q. B. D. 276.

Persons receiving profits from betting systematically carried on by them throughout the year are chargeable with income tax on such profits in respect of a "vocation" under Schedule (D.).

The Income Tax Act, 1842, Schedule (D.), Case II.— 5 & 6 Vict. c. 35, s. 100.

RULES.

First.—The said duty on employments shall be construed to extend to every employment by retainer in any character whatever, whether such retainer shall be annual, or for a longer or shorter period; and to all profits and earnings of whatever value, subject only to such exemptions as are hereinafter granted. To what the duty shall extend.

Second.—The duty to be charged shall be computed at a sum not less than the full amount of the balance of the profits, gains, and emoluments of such professions, employments, or vocations (after making such deductions, and no other, as by this Act are allowed), within the preceding year, ending as in the first case to be paid on the actual amount of such profits or gains, without any deduction, subject to the like provisions as are made in the first case in respect of the period of average, in the case of setting up and commencing such profession, employment, or vocation within the period herein limited: Computation of duty on professions.

This is now altered by

The Income Tax Act, 1853— 16 & 17 Vict. c. 34, s. 48.

48. The duty to be charged under Schedule (D.) in respect of professions, employments, or vocations not contained in any other schedule of this Act shall be computed on a sum not less than the full amount of the balance of the profits, gains, and emoluments of such professions, employments, or vocations upon a fair and just average of three years, instead of the amount of such profits, gains, and emoluments within the preceding year, as directed by the rules of Schedule (D.) in the said Act of the fifth and sixth years of her Majesty, chapter thirty-five, but subject in all other respects to the said last-mentioned rules. Duty on professions to be charged on an average of the profits of three years.

"Profits, Gains, and Emoluments."

"Having regard to the general scheme and context of the Act, I am unable to come to the conclusion that these words, 'profits, gains, and emoluments' of a private employment, as bank agent, under Schedule (D.) were meant by the Legislature to include more than the 'salaries, fees, wages, perquisites, or profits whatsoever,' accruing to a similar employment by a public company. In my opinion, the word 'emolument' occurring in the rules of Schedule (D.) means some more tangible benefit than a servant's residence in his master's house, or a meal or a suit of livery supplied by the master": Lord Watson in *Tennant* v. *Smith*. Lord Watson in *Tennant* v. *Smith*, [1892] A. C. 161.

In the above case it was held that a bank agent who is bound to occupy the bank house, and occupies it rent free, but cannot sub-let it, and is under obligation to quit the premises on ceasing to hold his office, cannot be assessed on the yearly value of the privilege of free residence. See also 1894, *McDougall* v. *Sutherland*, 21 R. 753; 3 Tax Cas. 261; 31 S. L. R. 680.

5 & 6 Vict. c. 35, s. 100.

The Income Tax Act, 1842—

Certain rules of the first case to extend to the second.

Third.—The third and fourth rules in the first case shall also extend to the profits arising out of the second case, as far as they are applicable.

Rules applying to both the preceding Cases.

Deductions not to be allowed on first and second cases.

First.—In estimating the balance of the profits or gains to be charged according to either of the first or second cases, no sum shall be set against or deducted from, or allowed to be set against or deducted from such profits or gains, for any disbursements or expenses whatever, not being money wholly and exclusively laid out or expended for the purposes of such trade, manufacture, adventure, or concern, or of such profession, employment, or vocation; nor for any disbursements, or expenses of maintenance of the parties, their families or establishments; nor for the rent or value of any dwelling-house or domestic offices, or any part of such dwelling-house or domestic offices, except such part thereof as may be used for the purposes of such trade or concern, not exceeding the proportion of the said rent or value hereinafter mentioned; nor for any sum expended in any other domestic or private purposes, distinct from the purposes of such trade, manufacture, adventure, or concern, or of such profession, employment, or vocation.

Profits or Gains.

1892, *Gresham Life Assurance Society* v. *Styles*, [1892] A. C. 324.

"When we come to the third rule, and the first of the rules 'applying to both the preceding cases,' it must be admitted that the words 'profits or gains' are not always used in their proper or ordinary sense. The third rule, for example, provides that in estimating the balance of profits and gains chargeable under Schedule (D.), 'no sum shall be set against or deducted from, or allowed to be set against or deducted from, such profits or gains' on account of any sum expended for the repairs of trade premises, or for the supply, repairs, or alterations of trade implements beyond the sum usually expended for such purposes on an average of three years. Here it is obvious that the 'profits or gains' against which the cost of repairs is not to be set, or from which it is not to be deducted, cannot be profits or gains of the business properly so called. The subject-matter necessitates the conclusion that language is being employed loosely and inaccurately. The rule contemplates the making up of a balance sheet, and deals with what may be put on the debit side of it. And the first rule 'applying to both the preceding cases,' which commences with the same words as the rule I have just referred to, evidently requires a similar construction": Lord Herschell in *Gresham Life Assurance* v. *Styles*.

"Money wholly and exclusively laid out or expended for the purpose of the Trade."

It must not be supposed that every item which would properly find its way into a profit and loss account is money wholly and exclusively laid out or expended for the purpose of a trade. Thus, an annual payment to government by a bank for the statutory power to issue notes is in the nature of capital expenditure, and is not money laid out within the rule. (*London Bank of Mexico and South America* v. *Apthorpe.*) [1891] 1 Q. B. 383. The difference between an insurance premium against strikes and the sums received by way of indemnity is not money so laid out by a colliery company, since the indemnity covered loss by deterioration of the colliery as well as loss of earning power, and, further, the indemnity was to maintain the colliery while it was not being worked. (*Rhymney Iron Co.* v. *Fowler.*) [1896] 2 Q. B. 79. Sums expended by a brewery company in unsuccessful applications for new licenses are not money so laid out but are in the nature of an investment. (*Southwell* v. *Savill Brothers.*) [1901] 2 K. B. 349. In this last case it was admitted that sums spent in successful applications could not be deducted, and the Court declined to distinguish between successful and unsuccessful applications.

"It is not enough that the disbursement is made in the course of, or arises out of, or is connected with, the trade, or is made out of the profits of the trade. It must be made for the purpose of earning the profits": Lord Davey in *Strong & Co., of Romsey, Ltd.* v. *Woodifield.* *Strong & Co., of Romsey, Ltd.* v. *Woodifield*, [1906] A. C. 448.

London Bank of Mexico and South America v. *Apthorpe*, [1891] 1 Q. B. 383.

Mainly with the object of securing the right to issue notes the bank entered into an agreement with another banking company in Mexico, whereby that company transferred to the London Bank of Mexico and South America a certain concession granted by the Federal Government, including, amongst other things, the right to issue notes. The appellants paid the other company 20,000*l.* for this transfer.

Held, that this was not money wholly and exclusively laid out for the purpose of the adventure. (Affirmed on appeal, this point not being argued.)

Reid's Brewery Co. v. *Male*, [1891] 2 Q. B. 1.

The appellants carried on the business of brewers, and also, as a branch or adjunct of their brewing business, the business of bankers and money-lenders, and in the course of such business lent money to their customers on security, and received money on deposit from their customers, who were allowed to draw bankers' cheques or orders on the appellants. In no case was any loan or advance made by way of permanent investment, but the same was taken only in connection with the current dealings and transactions of the customer with the appellants, and, in the event of such current dealings or transactions terminating, the loan or advance was required to be paid off, and the account closed. The profits of the brewery were largely increased by the addition of the banking and money-lending business, and the loans were necessary to enable the appellants to realise profits. They claimed to deduct from an assessment to the income tax on profits from trade, bad debts in respect of loans to customers.

Held, that the money advanced to customers was used in the business, and not capital invested, and that the deduction must be allowed.

Dillon v. *Corporation of Haverfordwest*, [1891] 1 Q. B. 575.

By a local Act the duty was imposed upon the respondent corporation of lighting a town with gas, and the Act further provided that it should be lawful for the respondents, after lighting the town, to supply private customers with gas. The respondents, from the supply of gas to private customers, earned profits, on which they were assessed to income tax. They claimed to deduct from these profits the expenses incurred in lighting the town, as being money wholly and exclusively laid out or expended for the purposes of a trade, within the meaning of 5 & 6 Vict. c. 35, s. 100, Schedule (D.), r. 1 of the rules applying to the first and second cases.

Held, that the lighting of the town and the supply of gas to private

customers were separate and distinct operations; that no trade was carried on until the respondents, after having lighted the town, began to supply gas to private customers, and therefore the expenses incurred in lighting the town were not money laid out or expended for the purposes of a trade, and the deduction could not be allowed.

See remarks on this case, *ante*, p. 138.

1895. *Inland Revenue* v. *Macdonald*, 22 Sc. Sess. Cas. (4th Series) 88; 32 S. L. R. 85; 3 Tax Cas. 306.

Testamentary trustees were assessed for income tax under Case V. Schedule (D.), on the full amount received by them in Great Britain of trade profits made in India.

The trustees claimed deduction of the expense of the trust administration in Great Britain on the ground that the beneficiaries, on whom the income tax fell, could only receive the profits subject to this deduction.

Held, that the deduction could not be allowed, as the trust administration was not an expenditure for trade purposes.

Rhymney Iron Co., Ltd. v. *Fowler*, [1896] 2 Q. B. 79.

The owners of a colliery were subscribers to a coal owners' association, which indemnified its subscribers against losses occasioned by strikes. In returning the profits of the colliery for income tax purposes they claimed to deduct the yearly average excess of their contributions over the amounts received by them as indemnities.

Held, that these sums were not money "exclusively laid out or expended for the purpose of the trade."

Royal Insurance Co. v. *Watson*, [1897] A. C. 1.

Where a trading company, in purchasing the business of another company, agrees to take into its service the manager of the purchased company at a fixed salary, or if they dismiss him to pay him a stipulated sum, and the purchasing company take the manager into their service, but shortly afterwards dismiss him and pay the agreed sum, the money so paid is capital and not income, and forms part of the purchase-money of the business acquired, and cannot, therefore, be deducted from the gross income of the year in which it is paid in calculating the amount assessable to income tax.

This decision was based entirely on the fact that the money was paid under an agreement between the Queen Insurance Co. and the Royal Insurance Co. on the transfer of the business of the former company to the latter.

The Court of Appeal decided the case on the ground that the money was not expended for the purposes of the respondents' adventure within the meaning of the first rule applicable to the first two cases of Schedule (D.).

This point was, however, left open in the House of Lords, and Lord Shand seemed to be of opinion that the appellants would have succeeded if the payment had not resulted from the agreement with the Queen Insurance Co. Lord Shand also dissented from the view that expenditure which is made in one year must, if it is to be deducted for the purposes of income tax, have reference to profits made during that year.

Southwell v. *Savill Brothers, Ltd.*, [1901] 2 K. B. 349.

To obtain new licenses a brewery company was compelled to surrender old ones. In order to have old licenses available it was in the habit of paying annual sums to holders of licenses for the right to call for a surrender. In the case of unsuccessful applications for new licenses the company claimed to deduct the annual sums so paid and other expenses incidental to the application as necessary trade expenses.

Held, that the annual sums and expenses were employed as capital in the trade, and the deduction could not be allowed.

1906. *Moore* v. *Stewart and Lloyds, Ltd.*, 43 S. L. R. 811.

A sum paid by one company to another, enabling the latter company to pay its preference dividend under an agreement by which the former

company secured the control on the board of directors of the latter company, was found by the Commissioners to have been made for the purpose of the trade of the former company, and that it might sell its goods at a better price.

Held, that it was a proper deduction from the profits of the former company.

Strong & Co., of Romsey, Ltd. v. *Woodifield*, [1906] A. C. 448.

A sum recovered by a customer from a brewery company, as the owners of an inn, for negligence causing personal injuries through the fall of a chimney, is not money wholly and exclusively laid out or expended for the purposes of the trade.

A Deduction may be made for the Annual Value of Premises exclusively used for Business Purposes.

"Now, it is not disputed that the annual value of premises exclusively used for business purposes is properly to be deducted in arriving at the balance of profits and gains. . . . But there may be a question where the right to make that deduction is to be found. I am myself disposed to think that it is allowed because it is an essential element to be taken into account in ascertaining the amount of the balance of profits": Lord Herschell in *Russell* v. *Town and County Bank, infra.*

The Finance Act, 1898—

61 & 62 Vict. c. 10. Annual value of deduction in certain cases.

9. Where in estimating the amount of annual profits or gains arising or accruing from any profession, trade, employment, or vocation, and chargeable to income tax under Schedule D. of the Income Tax Act, 1853, any sum is deducted on account of the annual value of the premises and for the purpose of such profession, trade, employment, or vocation, the sum so deducted shall not exceed the amount of the assessment of the premises for the purpose of income tax under Schedule A. to the said Act, as reduced for the purpose of collection under sect. 35 of the Finance Act, 1894.

16 & 17 Vict. c. 34.

57 & 58 Vict. c. 30.

"nor for the Rent or Value of any Dwelling-house or Domestic Offices, or any part of such Dwelling-house or Domestic Offices, except such part thereof as may be used for the purposes of such Trade or Concern."

1888. *Russell* v. *Town and County Bank*, 13 App. Cas. 418.

"I think that that manifestly is intended to apply to the case where a dwelling-house is occupied or rented by the person assessed in part for business purposes, and in part for purposes which are other than business purposes": Lord Herschell in *Russell* v. *Town and County Bank.*

Dwelling-house.

"The occupation of certain rooms in a bank by the bank manager for bank purposes, which occupation is necessary for the protection of the institution and the carrying on of its business, does not convert that part of the bank premises into a dwelling-house, though it may make them for certain purposes the dwelling of the manager or clerk": Lord Fitzgerald in *Russell* v. *Town and County Bank, infra.*

1888. *Russell* v. *Town and County Bank*, L. R. 13 App. Cas. 418.

The respondents, a banking company, carried on their business in buildings which contained accommodation occupied as a dwelling-house by the manager or resident agent.

Held, that the respondents were entitled to deduct from their profits, before returning them for assessment under Schedule (D.), the annual value of the whole bank premises, including the part occupied by the manager.

The Finance Act, 1907—

7 Edw. 7, c. 13, s. 25. Payment of tax on royalties by deduction.

25.—(1.) In estimating, under any schedule of the Income Tax Acts, the amount of the profits and gains arising from any trade, manufacture, adventure, concern, profession, or vocation, no deduction shall be made on account of any royalty or other sum paid in respect of the user of a patent, but the person paying the royalty or sum shall be authorized, on making the payment, to deduct and retain thereout the amount of the rate of income tax chargeable during the period through which the royalty or sum was accruing due.

51 & 52 Vict. c. 8.

(2.) Sub-section (3) of section twenty-four of the Customs and Inland Revenue Act, 1888, shall apply to any such royalties or sums as it applies to interest of money or annuities charged with income tax under Schedule D. in the Income Tax Act, 1853.

The Income Tax Act, 1842, Schedule (D.), Cases I. and II., Rules—

5 & 6 Vict. c. 35, s. 100. Duty on trade to be computed exclusive of the profits of lands.

Second.—The computation of the duty to be charged in respect of any trade, manufacture, adventure, or concern, or any profession, whether carried on by any person singly, or by any one or more persons jointly, or by any corporation, company, fraternity, or society, shall be made exclusive of the profits or gains arising from lands, tenements, or hereditaments occupied for the purpose of such profession, trade, manufacture, adventure, or concern:

Duty on trade carried on by two or more persons, how to be charged.

Third.—The computation of duty arising in respect of any trade, manufacture, adventure, or concern, or any profession carried on by two or more persons jointly, shall be made and stated jointly and in one sum, and separately and distinctly from any other duty chargeable on the same persons, or either or any of them; and the return of the partner who shall be first named in the deed, instrument, or other agreement of co-partnership (or where there shall be no such deed, instrument, or agreement, then of the partner who shall be named singly, or with precedence to the other partner or partners, in the usual name, style, or firm of such co-partnership, or where such precedent partner shall not be an acting partner, then of the precedent acting partner), and who shall be resident in the

United Kingdom (and who is hereby required, under the penalty herein contained for default in making any return required by this Act, to make such return on behalf of himself and the other partner or partners whose names and residences shall also be declared in such return), shall be sufficient authority to charge such partners jointly: Provided always, that where no such partner shall be resident in the United Kingdom, then the statement shall be prepared and delivered by their agent, manager, or factor resident in the United Kingdom, jointly for such partners, and such joint assessment shall be made in the partnership name, style, firm, or description; and no separate statement shall be allowed in any case of partnership: Provided also, that any joint partner in such trade, profession, or concern, which shall have been already returned by such precedent partner as aforesaid, may return his name and place of abode, and that he is such partner, without returning the amount of duty payable in respect thereof, unless the Commissioners respectively shall think proper to require a further return, in which case it shall be lawful for such Commissioners to require from every such partner the like return, and the like information and evidence, as they are hereby entitled to require from the precedent partner.

The Finance Act, 1907—

7 Edw. 7, c. 13, s. 20. Special provisions applicable to partners.

20. Where an individual carrying on or exercising any profession, trade or vocation in partnership with any other person makes any claim for exemption, relief or abatement under the Income Tax Acts, the income of the individual from the partnership for the year to which the claim relates may be treated separately for the purpose of any such exemption, relief, or abatement, and if so treated shall be deemed to be the share to which he is entitled during the said year in the partnership profits, such profits being estimated according to the several rules and directions of those Acts.

The joint owners of ships are partners within this rule, and the ship's husband is a "precedent acting partner."

1814. *Att.-Gen.* v. *Borrodaile*, 1 Price, 148.

This was decided on 46 Geo. 3, c. 65; but the rule in that Act is very similar.

Since partnership property must be assessed in this manner, it follows that a person who is a partner may be assessed on a different basis in respect of the partnership property to what he is in respect of his other property.

1903. *Farrell* v. *Sunderland Steamship Co., Ltd.*, 4 Tax Cas. 605; 88 L. T. 741.

A company, having traded for some years with one steamship, acquired $\frac{53}{64}$ of another steamship.

Held, that the profits of the second steamship must be assessed separately, and that in consequence the profits of the second steamer could not be lumped with the profits of the first steamer, and the three years' average taken as in a mere extension of business.

In case of change of partners the duty to be charged on the profits antecedent to the change.

Fourth.—If amongst any persons engaged in any trade, manufacture, adventure, or concern, or in any profession, in partnership together, any change shall take place in any such partnership, either by death, or dissolution of partnership as to all or any of the partners, or by admitting any other partner therein, before the time of making the assessment, or within the period for which the assessment ought to be made under this Act, or if any person shall have succeeded to any trade, manufacture, adventure, or concern, or any profession, within such respective periods as aforesaid, the duty payable in respect of such partnership, or any of such partners, or any person succeeding to such profession, trade, manufacture, adventure, or concern, shall be computed and ascertained according to the profits and gains of such business derived during the respective periods herein mentioned, notwithstanding such change therein or succession to such business as aforesaid, unless such partners, or such person succeeding to such business as aforesaid, shall prove, to the satisfaction of the respective Commissioners, that the profits and gains of such business have fallen short or will fall short from some specific cause, to be alleged to them, since such change or succession took place, or by reason thereof.

Change in a Partnership—Succeeding to a Profession, Trade, &c.

This applies to a change from a partnership to a limited company.

"I am of opinion that the facts here were no other than that a change took place in the partnership. The words are not 'as to one partner or more,' but 'as to all or any.' It took place here as to 'all.' It is undoubtedly a change in a partnership, and a very important change, that it should be converted from an ordinary partnership into a limited liability company. I am of opinion that there was a change, and that this limited company did 'succeed' to such profession, trade, manufacture, adventure, or concern; therefore they are brought within the portion of this clause to which I have referred": Grove, J., in *Ryhope Coal Co.* v. *Foyer* (*infra*).

1898. *Ferguson* v. *Aiken*, 4 Tax Cas. 36.

A company took over the business of a firm of whiskey distillers, blenders, &c. For some years prior to such taking over the firm had not worked any distillery. The company worked a distillery, and the accounts of the company for a period of about fourteen months after its formation included the results of the business carried on at such distillery, as well as those of the business carried on elsewhere.

The Commissioners held that the company was not a succession to the concern carried on by the firm.

Held, that this was a question of fact, and there was nothing to show that the Commissioners were wrong.

"from some Specific Cause."

"A specific thing, and a specified thing are to my mind totally different; I think 'specific' cause must be something capable of expression, but also something exceptional; it must not be the ordinary fluctuation incident to every business. . . . The specific cause must, I think, be something unusually exceptional and extraordinary, just as in those cases of damage done by floods, where the ordinary overflowing and annual flooding of the year is not considered an act of God and an exceptional thing, but a flood which does not occur for a century or so": Grove, J., *S. C.*

An extraordinary depression in Trade is a "Specific Cause."

1881. *The Ryhope Coal Co.* v. *Foyer*, L. R. 7 Q. B. D. 485.

A partnership, after working certain coal mines for more than five years, was on the 21st of December, 1875, incorporated as a limited company, and sold to the company the assets, subject to the liabilities, of the partnership. The partners became holders of all the shares in the limited company according to their interests. After the 3rd of August, 1876, changes took place in the shareholders. The company being assessed by the Income Tax Commissioners to the income tax under 5 & 6 Vict. c. 35, Schedule (D.), for the year ending the 5th of April, 1877, on an average of the five preceding years, appealed, and contended that they were only liable to pay on a computation for one year on the average of the profits from the 21st of December, 1875, the date of the incorporation. The Commissioners stated a case, in which they found that "the profits and gains of the appellants' business had fallen short since the 21st of December, 1875, from the following specific causes, viz., the extraordinary depression in the iron and coal trades, whereby the appellants were unable to sell either so large a quantity of their coals as they had formerly been enabled to do, or to obtain anything like so good a price for such coals." Figures showing that the annual profits had fallen short by one-half were set out.

Held, that the company was a new association carrying on an old concern; and had "succeeded" to it within Clause IV. of the third set of rules in Schedule (D.), but that, since such succession, the profits had fallen short from a "specific cause" within the exception in that clause, and that the rule of the sixth case, Schedule (D.), applied, and under it the computation should be made "on the amount of the full value of the profits and gains received annually," *i.e.*, for the current year.

1902. *Watson Brothers* v. *Lothian*, 4 F. 795; 4 Tax Cas. 441; 39 S. L. R. 604.

The mere purchase of a trading vessel does not of itself constitute "succession to the adventure" or concern of the former owners, and accordingly the purchaser must be assessed as for a new adventure.

Bell v. *National Provincial Bank of England*, [1904] 1 K. B. 149.

The respondents, a large bank with many branches, bought up in 1899 the County of Stafford Bank, which carried on business only at Wolverhampton. The respondents then opened a branch at Wolverhampton, using the premises, manager, and staff previously employed by the County of Stafford Bank. The profits of this branch were merged in the total profits of the respondents.

The Commissioners were of opinion that there was no succession, that the business when purchased was not sufficiently, generally or separately, identified after merger in the respondents' business to render the profits, if any, properly subject to separate assessment, and that the respondents were or would be charged with a fair proportion of the profits, and were not liable to be additionally assessed over and above the ordinary assessments in the

profits of the National Provincial Bank, and they discharged the assessment accordingly.

Held, that the question was one of law, that the decision of the Commissioners was wrong, and that there had been a succession.

1906. *Stockham* v. *Wallasey Urban District Council*, 95 L. T. 834; 5 L. G. R. 200.

There cannot be a succession to part of a concern, but a purchaser can succeed to one of two separate businesses carried on by the vendor.

5 & 6 Vict. c. 35, s. 100. Duties to be charged in one division, except where the same person is engaged in different concerns in trade in divers places.

Fifth.—Every statement of profits to be charged under this Schedule shall include every source so chargeable on the person delivering the same on his own account, or on account of any other person, and every person shall be chargeable in respect of the whole of such duties in one and the same division, and by the same Commissioners, (except in cases where the same person shall be engaged in different partnerships, or the same person shall be engaged in different concerns relating to trade or manufacture in divers places, in each of which cases a separate assessment shall be made in respect of each concern at the place where such concern if singly carried on ought to be charged as herein directed,) and every such statement on the behalf of any other person for which such person shall be chargeable as acting in any of the characters before described, or on the behalf of any corporation, fellowship, fraternity, company, or society, shall include every source chargeable as last aforesaid, and shall be delivered in that division where such person, corporation, fellowship, fraternity, company, or society would be chargeable if acting on his or their own behalf.

5 & 6 Vict. c. 35, s. 100.

Third case.—The duty to be charged in respect of profits of an uncertain annual value not charged in Schedule (A.).

Computation of duty on uncertain profits.

First.—The duty to be charged in respect thereof shall be computed at a sum not less than the full amount of the profits or gains arising therefrom within the preceding year, ending as in the first case, to be paid on the actual amount of such profits or gains, without any deduction:

On interest, not being annual.

Second.—The profits on all securities bearing interest payable out of the public revenue (except securities before directed to be charged under the Rules of Schedule (C.), and on all discounts, and on all interest of money, not being annual interest, payable or paid by any person whatever, shall be charged according to the preceding Rule in this case:

On dealers in cattle and sellers of milk.

Third.—Whenever the Commissioners shall, on examination, find that any lands occupied by a dealer in cattle, or by a dealer

in or seller of milk, (which lands shall have been estimated and charged on the rent or annual value,) are not sufficient for the keep and sustenance of the cattle brought on the said lands so that the rent or annual value of the said lands cannot afford a just estimate of the profits of such dealer, it shall be lawful for the said Commissioners to require a return of such profits, and to charge such further sum thereon as, together with the charge in respect of the occupation of the said lands, shall make up the full sum wherewith such trader ought to be charged in respect of the like amount of profits charged according to the First Rule in this case.

Fourth Case.—The duty to be charged in respect of interest arising from securities in Ireland, or in the British plantations in America, or in any other of her Majesty's dominions out of Great Britain, and foreign securities, except such annuities, dividends, and shares as are directed to be charged under Schedule (C.) of this Act.

5 & 6 Vict. c. 35, s. 100. Computation of duty from securities in Ireland, in the colonies, &c., and foreign securities.

The duty to be charged in respect thereof shall be computed on a sum not less than the full amount of the sums (so far as the same can be computed) which have been or will be received in the United Kingdom (*a*) in the current year, without any deduction or abatement.

(*a*) Great Britain before the Income Tax Act, 1853.

The Income Tax Act, 1853—

16 & 17 Vict. c. 34, s. 7. Duties in respect of securities and possessions in Ireland to be charged in same manner as securities, &c. of the like nature in Great Britain are chargeable, except as modified.

7. Provided also, that the duties in respect of interest arising from securities in Ireland, and in respect of possessions in Ireland, which by the said Act of the fifth and sixth years of her Majesty, chapter thirty-five, are directed to be charged and assessed respectively according to certain rules prescribed for charging the duties under the head respectively of "Fourth Case" and "Fifth Case" of Schedule (D.), and in section one hundred and six of the said Act, shall under this Act be charged and assessed in Ireland in the same manner and under the same schedules, rules, and regulations respectively as the duties on securities and possessions of the like nature in Great Britain are directed to be charged, except so far as such schedules, rules, and regulations are altered or modified in regard to the assessing or charging of duties in Ireland by the express provisions of this Act.

The words "in Ireland or" in the fourth case are now repealed by the Statute Law Revision (No. 2) Act, 1874.

Taxation under Case IV. is of a different nature to that under Case I., in-

asmuch as interest of money is a special subject of taxation, without regard to whether it is in the nature of profits. (*Clerical, Medical and General Life Assurance Society* v. *Carter.*)

L. R. 22 Q. B. Div. 449.

Thus, where the profits are small and the foreign interest received is large, it is obviously to the advantage of the Crown to tax under Case IV. rather than under Case I., and they appear to have a kind of option in the matter where the taxation is, in a sense, alternative. (*Scottish Mortgage and Land Investment Co. of New Mexico* v. *Commissioners of Inland Revenue.*)

14 R. 98; 21 S. L. R. 27; 2 Tax Cas. 165.

Moreover, there are many deductions from profits which have no bearing in regard to interest, so that if the interest is all profit it may still be to the advantage of the Crown to tax under Case IV. and not under Case I.

In *Norwich Union Fire Insurance* v. *Magee*, Wright, J., doubted the converse proposition that the Crown could always elect to tax under Case I. if the company were clearly under Case IV. This class of case arises where large profits are being made, but the company does not receive the foreign interest in the United Kingdom. The taxability of the subject under such circumstances is dependent on his exercising a trade in the United Kingdom, and possibly Wright, J., was thinking of such a case as *Kodak, Ltd.* v. *Clark.*

3 Tax Cas. 457; 44 N. R. 384; 12 T. L. R. 137; 73 L. T. 733.

[1903] 1 K. B. 505, C. A.; 4 Tax Cas. 549.

Where foreign interest is mixed up with profits and the interest is proper trading profit and nothing else, and not interest from investment of money upon securities, the Crown cannot first charge the company on its income arising from interest and then charge the company on its other profits. The Crown can only charge the company on its trading profits under Case I. (*Smiles* v. *Australian Mortgage and Agency Co.*)

15 R. 872; 25 S. L. R. 645; 2 Tax Cas. 367.

On the other hand, where the investment of money is part of the business of the company, as in insurance companies and other similar concerns, the Crown can tax the foreign interest received in the United Kingdom under Case IV., and there seems nothing to prevent the taxation of other profits, if distinguishable, under Case I.

The distinguishing of such profits may, however, be difficult, if not impossible, and at any rate a matter for actuarial calculation. It may be assumed that the Crown would not attempt double taxation, *i.e.*, the taxation of the same sum both as interest and also as profits, and as regards interest from home dividends. Sect. 52 of the Income Tax Act, 1842 (*ante*, p. 59), is supposed to prevent this. (*Clerical, Medical and General Life Assurance Society* v. *Carter.*)

22 Q. B. Div. 449.

In many cases the foreign interest is not brought over to this country, but is taken into account in making up the balance-sheet of the company. This has been described as a constructive receipt, but it has been held by the House of Lords that such a constructive receipt does not in itself make the interest taxable under Case IV. (*Gresham Life Assurance* v. *Bishop.*)

[1902] A. C. 287.

If, however, capital of a company which could not legally be applied to the payment of interest and dividends to debenture holders and shareholders is so applied instead of an equivalent amount of foreign interest left abroad, such a transaction, being merely to avoid the expense and inconvenience of cross remittances, is equivalent to a receipt in the United Kingdom of the foreign interest. (*Scottish Mortgage and Land Investment Co. of New Mexico* v. *Commissioners of Inland Revenue.*)

14 R. 98; 24 S. L. R. 87; 2 Tax Cas. 165.

"It is not necessary that the sums should be transmitted in formâ specifica."

"I concede that, in order to make the foreign interest liable in duty, it is not necessary that it should be remitted 'in formâ specifica,' if that means remitted in coin. Anything equivalent to money, or which can be turned into money, will do": Lord Trayner, in *Standard Life Assurance* v. *Allan*, *infra*.

"or will be received."

"The words 'or will be received' do not, in my opinion, affect the question. They simply provide for an estimate based upon the practice and requirements of the taxpayer, this being necessary because the return has to be made before the expiry of the financial year": Lord Moncreiff, in *Standard Life Assurance* v. *Allan*, *infra*.

1896. *Forbes* v. *Scottish Provident Institution*, 33 S. L. R. 228; 3 Tax Cas. 443; *Inland Revenue* v. *Scottish Provident Institution*, 23 R. 322.

Where interest derived from the colonial investments of a society for mutual insurance was not remitted here, but was re-invested abroad, held that, by being entered in the society's accounts, it was not constructively remitted to this country so as to be chargeable under Case IV.

1896. *Norwich Union Fire Insurance Co.* v. *Magee*, 3 Tax Cas. 457; 73 L. T. 733; 44 N. R. 384; 12 T. L. R. 137.

The insurance company claimed an allowance from their taxable profits on the ground that a portion consisted of interest of foreign investments not specifically remitted to the United Kingdom.

Held, that they were not entitled to such an allowance. Inasmuch as the foreign investments were a necessary part of the trade of the company, and not made merely for the purpose of investment, the interest thereon was taxable, although not remitted to the United Kingdom.

It is not quite clear in the case whether this interest was in the nature of profits so as to be taxable under Case I.

If this was not so the case is overruled by *Gresham Life Assurance* v. *Bishop*, *infra*.

1899. *Universal Life Assurance Society* v. *Bishop*, 68 L. J. Q. B. 962; 81 L. T. 422; 64 J. P. 5.

Interest accruing upon Indian securities held by a life insurance society, established in the United Kingdom and transacting business through its branches in India, retained in India as a matter of commercial convenience, but treated as part of the divisible profits upon which dividends are declared and paid at the society's chief office—although never actually received—is constructively received in the United Kingdom, and is assessable to income tax under Case IV., Schedule (D.), sect. 100. This case is practically overruled by *Gresham Life Assurance* v. *Bishop*, *infra*, and is only mentioned because it is not expressly overruled.

1901. *Standard Life Assurance Co.* v. *Allan*, 3 Sc. Sess. Cas. (5th Series), 805; 4 Tax Cas. 446; 38 S. L. R. 628.

Where interest derived from the foreign and colonial investments of a proprietary insurance company was not remitted home, but was retained in the countries where it was earned, and was invested or otherwise applied there,

Held, that by being entered in the company's accounts, and taken into account in estimating the amount of profit to be divided by way of bonus, dividend, or otherwise, it was not constructively received in this country so as to be chargeable with duty under Case IV. of Schedule (D.).

Gresham Life Assurance Society v. *Bishop*, [1902] A. C. 287.

The society did no business in certain countries, and carried on business in others, and in all the countries had funds invested in various securities in those countries. Part of the interest was either reinvested there or sent to other foreign countries for investment, but was included as interest of money received in the revenue and consolidated revenue accounts of the society under the head of "Interest, Dividends, and Rents," and was taken into account in arriving at the amount of life insurance, endowment, and annuity funds in the valuation balance-sheet upon which surpluses or profits were ascertained.

Held, that the interest was not taxable as being constructively received in the United Kingdom.

Scottish Provident Institution v. *Allen*, [1903] A. C. 129.

From 1885 until the end of 1898 a Scottish mutual insurance company had invested sums amounting to 1,504,000*l.* in Australia. The total interest on the Australian investments during this period was 1,034,707*l.*, and the

amount sent home from Australia was 716,500*l*. During this period many of the investments were realized and many fresh investments made, the sums received being paid into the Australian banking account, while the fresh investments were paid for from the same source. The Australian interest was also paid into this account. The company treated all the sums sent home as the product of the realization of the investments, although considerable periods often elapsed between the date of realization and the date when the amount was sent home, during which fresh investments were made. The amounts when sent home corresponded with the sums obtained from realizing the investments and were specified as such in correspondence, but with the express view of evading income tax.

Held, that the question was one of fact, and that the Commissioners were justified in treating the sums sent home as interest, and that the incidence of taxation could not be affected by calling that capital which is in reality profit.

5 & 6 Vict. c. 35, s. 100.

Fifth case.—The duty to be charged in respect of possessions in Ireland, or in the British plantations in America, or in any other of her Majesty's dominions out of Great Britain, and foreign possessions.

Computation of duty from possessions in Ireland, the colonies, &c.

The duty to be charged in respect thereof shall be computed on a sum not less than the full amount of the actual sums annually received in the United Kingdom (*a*), either for remittances from thence payable in the United Kingdom, or from property imported from thence into the United Kingdom, or from money or value received in the United Kingdom, and arising from property which shall not have been imported into the United Kingdom, or from money or value so received on credit or on account in respect of such remittances, property, money, or value brought or to be brought into the United Kingdom, computing the same on an average of the three preceding years, as directed in the first case, without other deduction or abatement than is hereinbefore allowed in such case.

16 & 17 Vict. c. 34, s. 7. 37 & 38 Vict. c. 96.

(*a*) Great Britain before the Income Tax Act, 1853.

As to possessions in Ireland, see Case IV., *supra*, and the alteration made by the Income Tax Act, 1853, given thereunder. The words "in Ireland or" are now repealed by the Statute Law Revision (No. 2) Act, 1874.

"Possessions."

1889, *Colquhoun* v. *Brooks*, 14 App. Cas. 516.

"The word 'possessions' is not a technical word. It seems to me that it is the widest and most comprehensive word that can be used": Lord Macnaghten in *Colquhoun* v. *Brooks*.

"When, therefore, the term 'possessions' is employed, it seems to indicate an intention to cover by it something more than 'property.' And it is difficult to see why, unless the intention were to embrace something more, the latter word was not used. 'Possessions' is a wide expression, it is not a word with any technical meaning; the Act supplies no interpretation of it. I cannot see why it may not fitly be interpreted as relating to all that is possessed in her Majesty's dominions out of the United Kingdom or in foreign countries, and which is a source of income. And if so, I do not think any violence would be done to the language if it were held to include the interest which a person in this country possesses in a business carried on elsewhere": Lord Herschell in *Colquhoun* v. *Brooks*.

1889. *Colquhoun* v. *Brooks*, L. R. 14 App. Cas. 493.

The respondent, who resided solely in England, was a partner in a firm which carried on business in Australia. Profits were made by the firm, and a portion of the respondent's share thereof was remitted to him in England, and on this portion he paid income tax under Schedule (D.). The larger portion of his share was not remitted to him in England, but was placed to his credit in Australia.

Held, that the case fell under the head of "possessions in any of her Majesty's dominions out of Great Britain, or foreign possessions" dealt with by the fifth case of Schedule (D.) in 5 & 6 Vict. c. 35, s. 100; and that the respondent's portion of profits not received in the United Kingdom was not liable to income tax.

Case V. is only applicable where a trade is not exercised in the United Kingdom. The authorities on the question as to whether or not a trade is exercised in various circumstances have already been dealt with. (See *ante*, p. 203.) Much litigation arose over companies managed from the United Kingdom but carrying on their business abroad, and it was at first held that such companies should be assessed under Case V. The House of Lords, however, considered that such companies exercised a trade in the United Kingdom, and should be assessed under Case I. (See *San Paulo Brazilian Railway* v. *Carter*, *ante*, p. 210.)

A company under Case V. is only taxed on the profits actually received in the United Kingdom, while under Case I. it is taxed on the whole of its profits.

Sixth case.—The duty to be charged in respect of any annual profits or gains not falling under any of the foregoing rules, and not charged by virtue of any of the other Schedules contained in this Act. 5 & 6 Vict. c. 35, s. 100.

The nature of such profits or gains, and the grounds on which the amount thereof shall have been computed, and the average taken thereon (if any), shall be stated to the Commissioners, and the computation shall be made either on the amount of the full value of the profits and gains received annually, or according to an average of such period greater or less than one year, as the case may require, and as shall be directed by the said Commissioners; and such statement and computation shall be made to the best of the knowledge and belief of the person in receipt of the same or entitled thereto. Computation of duty on undescribed profits.

For an example of the application of this case, see *Ryhope Coal Co.* v. *Foyer*, *ante*, p. 243. 1881, *Ryhope Coal Co.* v. *Foyer*, L. R. 7 Q. B. D. 485.

1871. *Att.-Gen.* v. *Black*, L. R. 6 Ex. Div. 308.

By 13 Geo. 3, c. 34, a power was given to Improvement Commissioners for Brighton to levy a duty of sixpence on every chaldron of coals landed on the beach or brought into the town, for the purpose of erecting and maintaining groyns, &c. against the sea. By subsequent Acts the duty was continued and increased, and by 6 Geo. 4, c. 179, it was, together with rates which the Commissioners were empowered to levy, market tolls, &c., to form a common fund for the general purposes of the Act, which included paving, lighting and watching, and the maintenance of groyns and other sea works.

Held, that this was either in the nature of a toll within Schedule (A.), No. III., Rule 3, or within Case VI. of Schedule (D.).

As to the limits of the application of Case VI., see Lord Watson in *Tennant* v. *Smith*. *Tennant* v. *Smith*, [1892] A. C. 160.

Losses in Separate Businesses.

5 & 6 Vict. c. 35, s. 101. Persons carrying on two or more concerns may set the loss sustained in one against the profits acquired in the other concern.

101. Provided always, and be it enacted, that nothing herein contained shall be construed to restrain any person carrying on, either solely or in partnership, two or more distinct trades, manufactures, adventures, or concerns in the nature of trade, the profits whereof are made chargeable under the Rules of Schedule (D.), from deducting or setting against the profits acquired in one or more of the said concerns the excess of the loss sustained in any other of the said concerns over and above the profits thereof, in such manner as may be done under this Act where a loss shall be deducted from the profits of the same concern, or to restrain any of such persons from making separate statements thereof, or to restrain any such person renting a dwelling-house, part whereof shall be used by him for the purposes of any trade or concern or any profession hereby charged, from deducting or setting off from the profits of such trade, concern, or profession such sum not exceeding two-third parts of the rent *bonâ fide* paid for such dwelling-house, with the appurtenances, as the said respective Commissioners shall on due consideration allow; and the respective Commissioners shall have authority to allow such deductions as in other cases, and to assess such person accordingly.

The 101st section only applies where the profits of both concerns are chargeable under Schedule (D.).

1886. *Inland Revenue* v. *Watt*, 23 S. L. R. 403; 13 R. 590; 2 Tax Cas. 143.

A farmer, who was assessed under Schedule (B.) upon the rent in respect of the occupation of his farm, and was also assessed under Schedule (D.) in respect of the annual profits arising from his business as a seed merchant, was not entitled, under sect. 101, to deduct from the profits arising from his business as seed merchant the loss which he had sustained as tenant of the farm, but this case is now covered by the Customs and Inland Revenue Act, 1890, s. 23. (See *post*, p. 297.)

1875. *In re Corporation of Birmingham*, 1 Tax Cas. 26.

The Corporation of Birmingham held to be correctly assessed for profits of market hall, fish market, vaults, and meat market, and not entitled to deduct and set against profits in one or more of the said matters any loss sustained in any other concern.

The 101st section does not apply to the case of a corporation which owns various kinds of property, such as "fines," "profits of market," &c.

1873. *Att.-Gen.* v. *Scott*, 28 L. T. 302; 21 W. R. 265; 1 Tax Cas. 55.

The income of the Corporation of the City of London, including the profits derived from "renewing fines," "profits of market," "corn and fruit metages," "brokers' rents," "Mayor's Court and other fees," is liable to income tax; and the proper principle on which deductions are to be allowed is to take each item or head of income separately, and to assess the income tax upon the net value of such item after deducting from its gross receipts the costs incurred in earning it.

1893. *Webber* v. *Corporation of Glasgow*, 30 S. L. R. 255; 3 Tax Cas. 202.

The "common good" of the City of Glasgow which consists of (1) burgess and freedom fines, (2) land lordship, (3) petty customs, is assessable to income tax, and the principle on which the assessment is to be made is to take each item or head of income separately and assess the income tax on the produce of such item after deducting from the gross receipts only the expenses incurred in earning and collecting the same, and not the general expenditure of the Corporation.

1896. *Religious Tract and Book Society* v. *Inland Revenue*, 23 R. 390; 3 Tax Cas. 415; 33 S. L. R. 289.

A society, whose object was to promote religion by the circulation of tracts and books, carried on the business of booksellers in a shop, and earned profits therefrom. The society also sold books by colporteurs, but the colportage work could not by itself be carried on at a profit as a commercial undertaking, and the society was able to continue it only by means of the profits earned in the shop and of voluntary subscriptions.

Held, that the profits earned in carrying on the business of booksellers were trade profits and fell to be assessed for income tax, and that the losses arising from the colportage agencies did not fall to be deducted therefrom, the colportage being essentially distinct from the bookselling business, and not being of the nature of trade.

The Income Tax Act, 1842—

5 & 6 Vict. c. 35, s. 102. Charging with duty all annual interest not otherwise charged.

102. And be it enacted, that upon all annuities, yearly interest of money, or other annual payments, whether such payments shall be payable within or out of the United Kingdom (*a*), either as a charge on any property of the person paying the same by virtue of any deed or will or otherwise, or as a reservation thereout, or as a personal debt or obligation by virtue of any contract, or whether the same shall be received and payable half-yearly or at any shorter or more distant periods, there shall be charged for every twenty shillings of the annual amount thereof the sum of sevenpence without deduction, according to and under and subject to the provisions by which the duty in the third case of Schedule (D.) may be charged: Provided that in every case where the same shall be payable out of profits or gains brought into charge by virtue of this Act no assessment shall be made upon the person entitled to such annuity, interest, or other annual payment, but the whole of such profits or gains shall be charged with duty on the person liable to such annual payment, without distinguishing such annual payment, and the person so liable to make such annual payment, whether out of the profits or gains charged with duty, or out of any annual payment liable to deduction, or from which a deduction hath been made, shall be authorized to deduct out of such annual payment at the rate of sevenpence for every twenty shillings of the amount thereof, and the person to whom such payment liable to deduction is to be made shall allow such deduction, at the full rate of duty hereby directed to be charged, upon the receipt of the residue of such money, and under the penalty hereinafter contained, and the person charged to the said duties

Interest from profits charged liable to deduction.

having made such deduction shall be acquitted and discharged of so much money as such deduction shall amount unto, as if the amount thereof had actually been paid unto the person to whom such payment shall have been due and payable; but in every case where any annual payment as aforesaid shall, by reason of the same being charged on any property or security in the British plantations, or in any other of her Majesty's dominions, or on any foreign property or foreign security, or otherwise, be received or receivable without any such deduction as aforesaid, and in every case where any such payment shall be made from profits or gains not charged by this Act, or where any interest of money shall not be reserved or charged or payable for the period of one year, then and in every such case there shall be charged upon such interest, annuity, or other annual payment as aforesaid the duty before mentioned, according to and under and subject to the several and respective provisions by which the duty in the third case of Schedule (D.) may be charged: Provided always, that where any creditor on any rates or assessments not chargeable by this Act as profits shall be entitled to such interest, it shall be lawful to charge the proper officer having the management of the accounts with the duty payable on such interest, and every such officer shall be answerable for doing all acts, matters, and things necessary to a due assessment of the said duties, and payment thereof, as if such rates or assessments were profits chargeable under this Act, and such officer shall be in like manner indemnified for all such acts, as if the said rates and assessments were chargeable.

All other interest to be charged under Schedule (D.).

Interest secured on rates to be charged on the officer managing the accounts.

(*a*) Great Britain before the Income Tax Act, 1853.

There is some doubt whether sect. 102 was a charging section under the Act of 1842, or whether "the annuities, yearly interest of money, or other annual payments" mentioned therein were charged under the first part of Schedule (D.) in that Act.

The latter view was taken in the first edition of this work founded on the judgment of Charles, J., in *Clerical, Medical and General Life Assurance* v. *Carter*, and it was afterwards adopted by the Court in *Forbes* v. *Scottish Provident Institution*, *infra*. However, in *London County Council* v. *Att.-Gen.*, Lord Macnaghten said: "In the Act of 1842 the charge upon annuities, yearly interest of money, and other annual payments, is not expressly included in Schedule (D.), where it was afterwards placed by the Act of 1853. It forms the subject of a distinct section. The charging section is sect 102. It extends to all annual payments."

21 Q. B. D. 347.

[1901] A. C. 26.

In any case it is clear that if and in so far as sect. 102 subjected to assessment income not covered by the lettered Schedules it is not now in force, as the tax is always imposed on the property in the Schedules.

1896. *Forbes* v. *Scottish Provident Institution*, 33 S. L. R. 228; 3 Tax Cas. 443; *Inland Revenue* v. *Scottish Provident Institution*, 23 R. 322.

An insurance society was assessed for income tax for the year 1893-94 on the interest of colonial investments not received in Great Britain, but

received and reinvested in the colonies, on the ground that it was subject to assessment under sect. 102 of the Income Tax Act, 1842.

Held (1), that if and in so far as sect. 102 of the Act of 1842 subjected to assessment income not covered by the lettered Schedules, it was not in force for the year 1893-94; and (2) that sect. 102 did not impose duties, but merely contained provisions as to the duties granted in the Schedules.

"Annuities, Yearly Interest of Money or other Annual Payments."

See *post*, p. 267.

"or in the British Plantations, or in any other of her Majesty's Dominions."

As to colonial companies, &c., see 24 & 25 Vict. c. 36, *infra*.

"or on any Foreign Property or Foreign Security."

As to foreign companies, &c., see 16 & 17 Vict. c. 34, s. 10, *infra*.

"from Profits or Gains not charged by this Act."

See 51 & 52 Vict. c. 8, s. 24, *infra*.

"Creditor on Rates or Assessments."

1890. *Aberdeen Commissioners of Supply* v. *Russell* (*Surveyor of Taxes*), 2 Tax Cas. 643; 17 R. 942; 27 S. L. R. 759.

Certain municipal buildings which are charged with income tax upon their annual value were erected with moneys borrowed on the security of the public rates, and the interest payable on the loans is raised out of the rates.

Held, that the interest is chargeable with income tax within the concluding provision of sect. 102.

We shall now proceed to give the sections of the Acts above referred to, showing how the scheme for deduction of the tax has been extended in order that people may not evade it.

The Income Tax Act, 1853—

16 & 17 Vict. c. 34, s. 10. Persons intrusted with the payment in the United Kingdom of interest or dividends from foreign companies to do all acts necessary in order to assessments being made thereon in manner directed by 5 & 6 Vict. c. 80.

10. The provision made by the Act passed in the said session of the fifth and sixth years of her Majesty, chapter eighty, section two, for the assessing and charging the duties on dividends and shares of annuities payable out of the revenue of any foreign state, shall be and the same is hereby extended to the assessing and charging of the duties granted by this Act, as well on such dividends and shares of annuities as aforesaid as on all interest, dividends, or other annual payments payable out of or in respect of the stocks, funds, or shares of any foreign company, society, adventure, or concern, or in respect of any securities given by or on account of any such company, society, adventure, or concern, and which said interest, dividends, or annual payments have been or shall be intrusted to any person in the United Kingdom for payment to any persons, corporations, companies, or societies in the United Kingdom, and all persons intrusted with the payment

of any such interest, dividends, or other annual payments as aforesaid in the United Kingdom, or acting therein as agents or in any other character, shall and they are hereby required to do and perform all such acts, matters, and things, in order to the assessing and charging and paying of the said duties on all such interest, dividends, or other annual payments as aforesaid, and under and subject to the like penalty or other liability for any neglect, refusal, or default in that behalf, as by the said Act of the fifth and sixth years of her Majesty, chapter eighty, persons intrusted with the payment of annuities or any dividends or shares of annuities are required to do and perform, or are subject or liable to for any similar neglect, refusal, or default; and the assessments of the duties on all such interest, dividends, and other annual payments as aforesaid shall be made by the Commissioners for Special Purposes under Schedule (D.) of this Act, and the said Commissioners shall do and perform all such acts, matters, and things in relation to such assessments as by the said Act, chapter eighty, they are required to do or perform in relation to any assessment under the said last-mentioned Act.

5 & 6 Vict. c. 80, s. 2.

An Act to grant relief from the duties of assessed taxes in certain cases, and to provide for the assessing and charging the property tax on dividends payable out of the revenue of foreign states.

Persons intrusted with the payment of foreign dividends or annuities shall deliver accounts thereof.

2 (*a*). All persons intrusted with the payment of annuities, or any dividends or shares of annuities, payable out of the revenue of any foreign state to any persons, corporations, companies, or societies in Great Britain, or acting therein as agents or in any other character, shall, without further notice or demand thereof, deliver or cause to be delivered into the Chief Office of Inland Revenue in England an account in writing containing their names and residences, and a description of the annuities, dividends, and shares intrusted to them for payment, within one calendar month after the same shall have been required by public notice in the London Gazette, and shall also, on demand by the inspector authorized for that purpose by the Commissioners of Inland Revenue, deliver or cause to be delivered to him, for the use of the said Commissioners for Special Purposes, true and perfect accounts of the amount of annuities, dividends, and shares payable by them respectively; and the said Commissioners for Special Purposes shall make an assessment thereon under Schedule (C.) of the said last-recited Act, at the rate therein prescribed, subject to diminution on occasion of any exemptions to be allowed by the said Commissioners for Special Purposes, giving notice of the amount of such assessments to the respective persons intrusted with such

Commissioners for Special Purposes to make assessments thereon.

payments, who shall respectively pay the duty on the said annuities, dividends, and shares, on behalf of the persons, corporations, and companies entitled unto the same, out of the moneys in their hands, and they shall be acquitted of such payments in like manner, and the like proceedings in all respects shall be had under the said Commissioners for Special Purposes, as are by the said last-recited Act directed in respect of annuities payable out of the public revenue of the United Kingdom: Provided always, that the persons intrusted with such payment shall from time to time pay the duty so assessed thereon into the Bank of England, to the account to be kept at the Bank of England with the Receiver-General of Inland Revenue, as directed by the said Act, and shall be answerable for such payment, and which duty so assessed shall, in default of such payment, be recoverable against the persons respectively intrusted with such payments, as other duties charged on the parties may be recovered against them; and if any person intrusted with the payment of any such last-mentioned annuities, or any dividends or shares thereof, in the manner herein mentioned, or acting therein as agent or in any other character, shall neglect or refuse to deliver an account of his name and residence in the manner herein directed, or, after demand, shall neglect or refuse to deliver an account as aforesaid of the amount of such annuities, dividends, and shares as he is intrusted with the payment of, or in the payment of which he shall act as agent or in any other character, he shall forfeit the sum of one hundred pounds, over and above the duty chargeable on such annuities, shares, or dividends.

(*a*) The preceding part of the section is repealed by the Statute Law Revision (No. 2) Act, 1890. 53 & 54 Vict. c. 51.

We shall now give a very curious example of the application of sect. 10. We know that under Schedule (D.) a corporation "residing" abroad is not chargeable with income tax on its profits earned abroad. It is clear, however, that the shareholders of the corporation who "reside in the United Kingdom" and receive their dividends in the United Kingdom are chargeable under Schedule (D.), Case V. Example of the application of sect. 10 of 16 & 17 Vict. c. 34.

Now observe the effect in the following case:—

A corporation resides abroad, but has an agency in England, and does business both abroad and through its agency in England. The share certificates are made out to bearer, and the shares themselves are transferable by delivery of the certificates. The dividends are payable, at the option of the holders, in England or abroad, by means of coupons attached to the certificates.

The corporation must pay income tax as follows:—

(1.) On the profits earned in England.

This follows at once from Clause 2 of Schedule (D.). It is tax payable by the corporation as a body earning profits in the United Kingdom.

(2.) On such part of the profits earned abroad as is expended in dividends paid in England.

This is tax payable by the agency on behalf of those shareholders who reside in the United Kingdom.

In order to determine from what profits the dividends flow, the whole profit, English and Foreign, of the corporation is first determined, and every dividend paid is considered to be made up of English and Foreign profits in the proportion that the whole English profit bears to the whole Foreign profit. It does not matter that in fact the dividends paid in England are paid entirely out of the English profits already taxed by (1). In theory, the corporation pays its dividends out of one lump sum consisting of all the profits, English and Foreign, and in the assessment it must be taken that this is done, although, in fact, it is not so. Thus, although, in fact, all the dividends paid in England are paid out of English profits only, and no Foreign profit is actually received in the United Kingdom, yet the corporation may be assessed in a much larger sum than the English profits, on account of the Foreign profit theoretically supposed to exist in each dividend paid.

1881. *Gilbertson* v. *Fergusson*, L. R. 7 Q. B. D. 562.

The Imperial Ottoman Bank (constituted as described in *Att.-Gen.* v. *Alexander*, *ante*, page 203) had an agency in London which conducted a branch and earned profits. The dividends of the shareholders were payable by coupon either abroad or at the London agency at the option of the shareholders. In a particular year, the London agency earned an amount of profits which enabled them to pay all the dividends demanded of them in that year without requiring or obtaining any remittance from the company abroad. The London agency were assessed to income tax under Schedule (D.) on the profits earned in the United Kingdom on an average of the three preceding years. They were also assessed in respect of the dividends paid by them. They appealed against the latter assessment.

Held, that since the dividends were payable out of the general earnings of the company consisting of profits made partly in the United Kingdom, and partly elsewhere, and the London agency had already been assessed to income tax on the former, they ought only to be assessed in respect of that portion of the dividends which represented profits arising out of the United Kingdom.

EXAMPLE.

1st method. Suppose the bank earns £800,000 profit, of which £100,000 is earned in England, and £700,000 abroad:

And suppose it expends this profit in dividends, of which £150,000 are paid in England, and £650,000 abroad—

(1.) Assess the English profits = £100,000.

(2.) Assess so much of the Foreign profits as is expended in dividends paid in England.

Let this be F.

And let E denote that part of the English profit which is expended in dividends paid in England.

Then E + F = whole English dividend = 150,000.

Now the English profit : the Foreign profit :: 100,000 : 700,000
:: 1 : 7

$\therefore$ E : F :: 1 : 7

$\therefore$ E + F : F :: 8 : 7

$\therefore$ 150,000 : F :: 8 : 7

$\therefore$ $F = \frac{7}{8} \times 150{,}000 = 131{,}250$

$\therefore$ Total assessment = 100,000 + 131,250
= £231,250

This is the method indicated by Brett, L. J.

2nd method. We can arrive at the same result by a different method (see Bramwell, L. J., in *Gilbertson* v. *Fergusson*).

(1.) Assess the dividends paid in England = £150,000.

As it is assumed that the shareholders who receive these dividends in England reside in England they are liable to pay the tax, and the agency pays it on their behalf under sects. 102 and 10 of the Acts of 1842 and 1853 respectively.

(2.) Assess so much of the dividends paid abroad as flows from profit earned in England.

This follows from clause 2 of Schedule (D.). It is tax payable by these shareholders as exercising a trade in England, and is payable by the agency on their behalf under sect. 102.

Let E be that part of the dividend paid abroad which flows from profits earned in England;

And let F be that part of the dividend paid abroad which flows from Foreign profit;

Then E + F = whole Foreign dividend = 650,000.

Now the English profit : Foreign profit :: 100,000 : 700,000
:: 1 : 7

$\therefore$ E : F :: 1 : 7
$\therefore$ E : E + F :: 1 : 8
$\therefore$ E : 650,000 :: 1 : 8
$\therefore$ $E = \frac{1}{8} \times 650{,}000 = 81{,}250$
$\therefore$ Total assessment = £150,000 + £81,250
= £231,250

By the Revenue (No. 2) Act, 1861—

24 & 25 Vict. c. 91, s. 36. The provision made for assessing the income tax on the interest and dividends payable in the United Kingdom arising out of foreign companies, extended to colonial companies.

36. The provision made by the Act passed in the 5 & 6 Vict. c. 80, s. 2, and the Act passed in the 16 & 17 Vict. c. 34, s. 10, for the assessing and charging the income tax on interest, dividends, or other annual payments payable out of or in respect of the stocks, funds, or shares of any foreign company, society, adventure, or concern, shall be and the same is hereby extended and shall be applied to the assessing and charging of the income tax on all interest, dividends, or other annual payments payable out of or in respect of the stocks, funds, or shares of any colonial company, society, adventure, or concern, and in respect of any securities given by or on account of any such colonial company, society, adventure, or concern, and which said interest, dividends, or annual payments have been or shall be intrusted to any person in the United Kingdom for payment to any persons, corporations, companies, or societies in the United Kingdom; and for this purpose the said section ten of the last-mentioned Act and this enactment shall be read and construed together as one enactment, in like manner as if the words "or colonial" had been inserted and contained in the said section ten, immediately after the word "foreign," used therein with reference to any company, society, adventure, or concern.

The Revenue Act, 1866—

29 & 30 Vict. c. 36, s. 9. Extending to persons registering foreign dividends, &c. for payment in the United

9. The provisions made by the several Income Tax Acts in force on the 5th day of April, 1866, for assessing and charging the duties on dividends and shares of annuities payable out of the revenue of any foreign state or colonial government, and all interests, dividends, or other annual payments payable out of or in respect of

Kingdom the provisions contained in 5 & 6 Vict. c. 35; 5 & 6 Vict. c. 80; 16 & 17 Vict. c. 34; and 24 & 25 Vict. c. 91.

the funds, stocks, shares, or securities of any foreign or colonial company, society, adventure, or concern, intrusted to any person in the United Kingdom for payment to any person therein, shall be and the same are hereby extended and shall be applied to the assessing and charging of the income tax on all such dividends and shares of annuities, and interest, dividends, and other annual payments, where the right or title of the person to whom the same may be payable is shown by the registration or entry of the name of such person in any book or list ordinarily kept in the United Kingdom; and for the purpose of such assessment and charge the agent or other person having the ordinary custody of such book or making such list shall be deemed to be the person intrusted with the payment of such dividends and shares of annuities, and interest, dividends, and other annual payments, within the meaning of the said Income Tax Acts.

31 & 32 Vict. c. 28, s. 5.

The Revenue Act, 1868—

The provision made for assessing the income tax on the interest and dividends payable in the United Kingdom, arising out of foreign companies, extended to annuities, pensions, &c., payable out of funds in India.

5. The provisions contained in section ten of the said Act of the 16 & 17 Vict. c. 34, with reference to the assessing and charging the income tax on interest, dividends, or other annual payments payable out of or in respect of the stocks, funds, or shares of any foreign company, society, adventure, or concern, shall be and the same are hereby extended and shall be applied to the assessing and charging of the income tax on all annuities, pensions, or other annual sums payable out of the funds of any institution in India, which said annuities, pensions, or annual sums have been or shall be intrusted to any person in the United Kingdom for payment to any persons resident in the United Kingdom.

48 & 49 Vict. c. 51, s. 26.

The Customs and Inland Revenue Act, 1885—

Provision for further securing income tax on foreign and colonial dividends.

26. Sect. 96 of 5 & 6 Vict. c. 35, sect. 2 of 5 & 6 Vict. c. 80, sect. 10 of 16 & 17 Vict. c. 34, and sect. 36 of 24 & 25 Vict. c. 91, shall be read in relation to the dividends therein respectively mentioned, as if the said sections included amongst the persons intrusted with the payment of such dividends the persons hereinafter described (that is to say):—

(a) Any banker or person acting as a banker who shall sell or otherwise realize coupons or warrants for or bills of exchange purporting to be drawn or made in payment of any dividends (save such as are payable in the United Kingdom only), and pay over the proceeds to any person or carry the same to his account;

(b) Any person who shall, by means of coupons received from any other person, or otherwise on his behalf, obtain payment of any dividends elsewhere than in the United Kingdom;

(c) Any dealer in coupons who shall purchase coupons for any dividends (save such as are payable in the United Kingdom only) otherwise than from a banker or person acting as a banker, or another dealer in coupons.

A person intrusted with the payment of dividends, who shall perform all necessary acts so that the income tax thereon may be assessed and paid, shall be entitled to receive as remuneration an allowance of so much (not being less than threepence) in the pound of the amount paid as may from time to time be fixed by the Treasury.

Provided that this section shall not impose on any banker or other person the obligation to disclose any particulars relating to the affairs of any person on whose behalf he may be acting.

The Customs and Inland Revenue Act, 1888— 51 & 52 Vict. c. 8, s. 24.

24.—(2.) Sect. 26 of the Customs and Inland Revenue Act, 1885, shall be read and construed as if the word "coupons" in sub-sect. (b) of that section, and the expression "coupons for any dividends" in sub-sect. (c) of that section, included "warrants for or bills of exchange purporting to be drawn or made in payment of any dividends."

Interest of money, &c., not payable out of profits or gains.

(3.) Upon payment of any interest of money or annuities charged with income tax under Schedule (D.), and not payable, or not wholly payable, out of profits or gains brought into charge to such tax, the person by or through whom such interest or annuities shall be paid shall deduct thereout the rate of income tax in force at the time of such payment, and shall forthwith render an account to the Commissioners of Inland Revenue of the amount so deducted, or of the amount deducted out of so much of the interest or annuities as is not paid out of profits or gains brought into charge, as the case may be; and such amount shall be a debt from such person to her Majesty, and recoverable as such accordingly; and the provision contained in sect. 8 of 13 & 14 Vict. c. 97, now in force in relation to money in the hands of any person for legacy duty, shall apply to money deducted by any person in respect of income tax.

Sect. 8 of 13 & 14 Vict. c. 97, is to the effect that all persons receiving moneys for legacy duties and misappropriating the same are to be liable for the amount, and the Court of Exchequer is to enforce payment thereof.

1890. *Lord Advocate* v. *Forth Bridge Railway Co.*, 3 Tax Cas. 1; 28 S. L. R. 576.

A bridge company during the construction of its works made no profits, but paid under deduction of income tax interest on its own share and debenture capital.

Held, the income tax so deducted is a debt to the Crown under 51 & 52 Vict. c. 8, s. 24, sub-s. 3.

1900. *Tireman and others* v. *Appleton, French & Scrafton, Ltd.*, 43rd Report of the Commissioners of Inland Revenue, 151.

In a debenture-holder's action in which the assets of the company were realized and the proceeds paid into Court, an order of the 26th May, 1899, directed payment to the debenture-holders of principal moneys and interest as therein provided. In accordance with Rule 17 of the Supreme Courts Funds Rules, 1894, income tax was deducted from such interest, but no direction was inserted in the order for payment of the income tax to the Commissioners of Inland Revenue. On an application on behalf of the Commissioners to vary the order of the 26th May, 1899, by inserting therein a direction for the transfer of the income tax deducted to their account, it was held by North, J., on the 5th December, 1899, that it was unnecessary to insert the direction asked for, as by virtue of sub-sect. 3 of sect. 24 of the Customs and Inland Revenue Act, 1888, the Paymaster must pay to the Commissioners of Inland Revenue the tax so deducted.

1903. *Lord Advocate* v. *Lord Provost, Magistrates, and Council of the City of Edinburgh*, 41 S. L. R. 1; 6 F. 1; 4 Tax Cas. 627.

The interest of money mentioned in sect. 24 (3) of the Customs and Inland Revenue Act, 1888, is not confined to yearly interest.

"Out of Profits or Gains brought into charge to such tax."

"Such tax" means the income tax, and is not confined to income tax under Schedule (D.).

1. *London County Council* v. *Att.-Gen.*, [1901] A. C. 26.
2. *London County Council* v. *Att.-Gen.*, 23 T. L. R. 390.

1. The London County Council receive income taxable under Schedules (A.) and (D.) from which the tax is deducted. They pay dividends taxable under Schedule (D.) from which they deduct the tax. The latter largely exceed the former.

Held, that before accounting to the Crown for the tax deducted from the dividends paid by them, they may deduct therefrom an amount equal to the tax deducted from their income under Schedules (A.) and (D.).

2. But that in respect of lands occupied by them as owners and on which they pay tax under Schedule (A.), they are not entitled to deduct this tax as well.

Failure to deduct the Tax renders the Person so failing liable.

1905. *Lord Advocate* v. *Corporation of Edinburgh*, 7 F. 972; 42 S. L. R. 241.

A person who neglects to deduct the tax is liable to render an account and pay it to the Crown under sect. 24 (3).

5 & 6 Vict. c. 35, s. 103. Penalty on refusing to allow deductions.

The Income Tax Act, 1842—

103. And be it enacted, that if any person shall refuse to allow any deduction authorized to be made by this Act out of any payment of annual interest of money lent, or other debt bearing annual interest, whether the same be secured by mortgage or other-

wise, he shall forfeit for every such offence treble the value of such principal money or debt; and if any person shall refuse to allow any deduction authorized to be made by this Act out of any rent or other annual payment mentioned in the ninth and tenth Rules of No. IV. Schedule (A.), or out of any annuity or annual payment mentioned in Schedules (C.) or (E.), or in the next preceding clause, save such annual interest as aforesaid, every such person shall forfeit the sum of fifty pounds; and all contracts, covenants, and agreements made or entered into, or to be made or entered into, for payment of any interest, rent, or other annual payment aforesaid, in full, without allowing such deduction as aforesaid, shall be utterly void.

Examples of void "contracts, covenants, and agreements."

Life-Rent Annuity.

1858. *Blair* v. *Allen*, 21 Sc. Sess. Cas. (2nd Series) 15.

An obligation for payment "of a free life-rent annuity, exempted from all burdens and deductions whatsoever," assuming it to impute an obligation to pay the annuitant without deduction of income tax, was void to the extent of such obligation under 5 & 6 Vict. c. 35, s. 103; and that provision was re-enacted by 16 & 17 Vict. c. 34, s. 5.

Marriage Settlements.

1858. *Att.-Gen.* v. *Shield*, 3 H. & N. 834; 28 L. J. Ex. 49.

By a marriage settlement, certain lands were conveyed subject to "an annuity or clear yearly sum of 100*l.* freed and clear and without any deduction or abatement whatsoever in respect of any taxes or impositions then already or which should thereafter be taxed, charged, assessed, or imposed upon the said premises, or upon the said annuity, by authority of parliament or otherwise howsoever."

Held, that the parties paying the annuity were entitled to deduct income tax under 5 & 6 Vict. c. 35, s. 103, and that the annuitant refusing to permit the deduction was liable to the penalty under sect. 103.

1863. *Floyer* v. *Bankes*, 32 L. J. Ch. 610; 2 N. R. 7; 8 L. T. 483; 11 W. R. 630.

By a marriage settlement, made in 1810, certain hereditaments were limited to the use that the intended wife might, upon the decease of her husband, receive a jointure rent-charge, payable without any deduction in respect of any taxes already imposed, or thereafter to be imposed, upon the hereditaments, or the yearly rent-charge, or the intended wife in respect thereof.

Held, that assuming the terms of the deed to amount to an express provision that the jointure should be paid free of income tax (which it would seem they did), still the income tax must be paid by the jointress, the 103rd section of the 5 & 6 Vict. c. 35, prohibiting any contract to that effect. See also *Shrewsbury* v. *Shrewsbury*, 22 T. L. R. 598.

Only that Part of the "Contract, Covenant, and Agreement" is void which compels Payment in full without deduction. The "Contract, Covenant, and Agreement" for Payment remains good.

"The legislature do not avoid the deed itself, but only the contract for the payment, without allowing the deduction for the tax. The words do not

necessarily import that the whole contract is to be avoided, but only so much as disallows the deduction for the tax: indeed, as the Act refers to contracts then made, as well as those to be made, it would have been unjust to avoid the whole": Lord Ellenborough, C. J., in *Howe* v. *Synge*.

1812. *Howe* v. *Synge*, 15 East, 442.

A deed granting an annuity recited the agreement for the purchase of a certain annuity, free from the property or income tax, and covenanted for the payment of it without any deduction in respect of the property or income tax.

Held, it was not void *in toto*, but only to the extent of such disallowance. See also *Tinckler* v. *Prentice* (1812), 4 Taunt. 549; 13 R. R. 684; *Fuller* v. *Abbott* (1818), 4 Taunt. 105.

Howe v. *Synge* was decided on 46 Geo. 3, c. 65, s. 115, but that part of the section avoiding contracts is the same as sect. 103 of 5 & 6 Vict. c. 35.

The Section does not make an Agreement void which provides for the Payment of Rent in full, without deducting the Tax, and that the Landlord will repay to the Tenant all sums paid by the Tenant as Landlord's Property Tax.

"The substance of sect. 103 is, that although the tax is levied upon the tenant who is in occupation, yet the landlord is ultimately to bear the burden of it, and that any agreement to the contrary is void. In order to cast the burden upon the landlord, it is unnecessary to hold that an agreement is illegal, if it provides that the tenant shall in the first instance pay the rent without deducting the tax, and that the landlord will subsequently repay him; for the object of the statute is thereby fulfilled": Brett, L. J., in *Lamb* v. *Brewster*.

1879. *Lamb* v. *Brewster*, L. R. 4 Q. B. D. 607.

An agreement that if the tenant will continue to pay his rent in full without any deduction in respect of landlord's property tax paid by him, the landlord will repay to the tenant all sums which he has paid or shall pay for the landlord's property tax, is not invalid as being contrary to the provisions of 5 & 6 Vict. c. 35, s. 103.

The Section does not apply to Wills.

It will be noticed that the section does not include wills, and it has been held not to apply to wills.

1862, *Festing* v. *Taylor*, 3 B & S. 242; 32 L. J. Q. B. 41; 9 Jur. (N. S.) 44; 7 L. T. 429; 11 W. R. 70.

"We find it impossible to exclude from consideration this remarkable omission of wills in sect. 103. . . . . This omission could not have been accidental . . . because, shortly before, wills are expressly referred to. Nor is it so absurd to suppose that wills should have been intended by the legislature to stand upon a different footing from deeds, as to justify us in being astute to find reasons for introducing them into a nullifying clause, from which the legislature has, for aught we know, deliberately omitted them": *Per Curiam* in *Festing* v. *Taylor*.

1864, *Abadam* v. *Abadam*, 33 Beav. 475; 33 L. J. Eq. 593; 10 Jur. (N. S.) 505; 10 L. T. 53; 12 W. R. 615.

"All the cases proceed on this foundation: that if the testator expressly points to the deduction of the income tax, it is a bequest of so much additional to the legacy or annuity: and the Court of Exchequer Chamber has determined, notwithstanding the policy of the 103rd section of the Act, that a testator may direct payment of that tax if he thinks fit": Sir John Romilly, M. R., in *Abadam* v. *Abadam*.

1882, *Bannerman* v. *Young*, L. R. 21 C. D. 103.

"The rule is: Whether or not an annuity should be free from any deduction for income tax must depend upon the meaning of the words used by the testator": Hall, V.-C., in *Bannerman* v. *Young*.

1861. *Turner* v. *Mullineux*, 1 J. & H. 334.

A testator gave three annuities, the first "free from income or property tax, or any other deduction," the second "free from all deductions," the third "free from deduction."

Held, that all the annuities were free from income tax.

1862. *Festing* v. *Taylor*, 3 B. & S. 217; 32 L. J. Q. B. 41; 9 Jur. (N. S.) 44; 7 L. T. 429; 11 W. R. 70.

A testator gave a rent-charge "without any deduction or abatement whatsoever on account of any taxes, charges, impositions, or assessments already or to be thereafter taxed, charged, assessed or imposed on the same hereditaments, or on the said rent-charge, or on the said donee or her assigns in respect thereof, by authority of parliament or otherwise howsoever.

Held, that the rent-charge was free from income tax.

1862. *Lord Lovat* v. *Duchess of Leeds*, 2 Dr. & Sm. 62; 31 L. J. Eq. 503; 6 L. T. 307; 10 W. R. 397.

A testator devised a mansion-house and lands to his wife for her life, and directed his trustees, out of the rents and profits of his other real estate, during the wife's life, to insure and repair, and to pay and defray all taxes—parliamentary, parochial, or otherwise—affecting the hereditaments given to his wife.

Held, that income tax came within the words "taxes affecting the hereditaments"; and, therefore, that the trustees were bound to pay any income or property tax payable in respect of the widow's interest in such hereditaments.

1875. *Mackie's Trustees* v. *Mackie*, 2 R. 312; 12 S. L. R. 222.

A testator left to his widow an annuity "free from all burdens, taxes, and deductions whatsoever," and declared it to be in full of all her legal rights.

Held, that the annuity was given free of income tax.

1882. *Bannerman* v. *Young*, L. R. 21 C. D. 105.

A testator gave to his wife annuities or clear yearly sums for her life "free from all deductions in respect of any present or future taxes, charges, assessments, or impositions, or other matter, cause, or thing whatsoever," and directed the trustees to appropriate and invest a sufficient part of his personal estate as a fund for the purpose of paying them.

Held, that the widow was entitled to be paid the annuities in full, free from any deduction; and also entitled to be paid all the sums which had been deducted. *Lord Lovat* v. *Duchess of Leeds* followed.

In re Buckle, *Williams* v. *Marson*, [1893] 1 Ch. 286.

A testator gave annuities "to be paid clear of all deductions whatsoever, except income tax." By a codicil made five years afterwards, after making certain alterations and increasing the amount of one of the annuities, he proceeded: "And I expressly direct that every legacy and other interest as well derivable under my will as any codicil thereto shall be free of legacy duty and every other deduction."

Held (reversing the decision of North, J.), that, although income tax is not a deduction, as the testator had shown in his will that he understood it as such, the annuities must be paid free of income tax.

The following case is an apparent exception to the rule, but has been commented on adversely in *Kinloch's Trustees* v. *Kinloch*, *infra*, where the Court was of opinion that a testamentary bequest of an annuity in full of legal rights, free of income tax, was not an agreement or contract struck at by sect. 103. It is probably not good law.

1880, *Kinloch's Trustees* v. *Kinloch*, 7 Sc. Sess. Cas. (4th Series) 596; 17 S. L. R. 444.

1875. *Rodgers' Trustees* v. *Rodgers*, 2 R. 294; 12 S. L. R. 204.

A husband, in a trust disposition, directed his trustees to pay to his wife, if she survived him, "a free yearly annuity" of 1,200*l*., and he further provided that if she accepted this annuity, it should be in full satisfaction of all her rights, legal and conventional. The wife survived and accepted the annuity.

Held, that if the annuity were given free of income tax, the widow, by accepting it as in full of her legal rights, had entered into an agreement of the nature struck at by sect. 103. See also *Pearce* v. *Marriott*, 22 C. D. 182.

Words in Wills which have been held insufficient to free Annuities, &c. from Income Tax.

Bannerman v. *Young*, L. R. 21 C. D 105. 1862. *Lord Lovat* v. *Duchess of Leeds*, 2 Dr. & Sm. 62; 31 L. J. Eq. 503; 6 L T. 307; 10 W. R. 397.

As stated by Hall, V.-C., in *Bannerman* v. *Young*, *supra*, "Whether or not an annuity should be free from any deduction for income tax must depend upon the meaning of the words used by the testator."

It has been decided that a gift "without any deduction" is not given free of income tax, although Lord Kindersley, in *Lord Lovat* v. *Duchess of Leeds*, at one time expressed a doubt; but in 1864, *Abadam* v. *Abadam*, *infra*, decided the point.

"Clear of Legacy Duty and every other Deduction whatsoever."

1851. *Lethbridge* v. *Thurlow*, 15 Beav. 334; 21 L. J. Eq. 538.

A testator gave to his son an annuity of 500*l.* during his life, clear of legacy duty and every other deduction whatsoever.

Held, that the annuity was subject to property tax.

"free from Legacy Duty and other Deductions."

1858. *Sadler* v. *Rickards*, 4 K. & J. 302; 6 W. R. 532.

A testator gave to his wife the annual sum of 500*l.* free from legacy duty and other deductions.

Held, that the annuity was subject to income tax, and that there was no substantial difference in this respect between the Acts of 1842 and 1853.

"without any Deduction whatsoever."

1864. *Abadam* v. *Abadam*, 33 Beav. 475; 33 L. J. Ex. 593; 10 Jur. (N. S.) 505; 10 L. T. 53; 12 W. R. 615.

A testator appointed an annuity of 500*l.* to his widow for life "to be payable without any deduction whatsoever."

Held, that it was not given free of income tax.

"exempted from all Burdens and Deductions whatsoever."

1880. *Kinloch's Trustees* v. *Kinloch*, 7 R. 596; 17 S. L. R. 444.

An annuity bequeathed "exempted from all burdens and deductions whatsoever."

Held, that the annuity was subject to income tax.

"clear yearly Sum free from all Deductions and Abatements whatsoever."

1882. *Gleadow* v. *Leetham*, L. R. 22 C. D. 269.

A testator declared that his trustees should stand possessed of his residuary estate, and directed them, out of the income, to pay to his wife "the clear yearly sum of 600*l.*" . . . . "the said annuities . . . . to be paid free from all deductions and abatements whatsoever."

By a codicil an annuity of 1,000*l.* was given in lieu of 600*l.*

Held, that the annuity was not given free of income tax.

"clear of all Taxes and Deductions."

In the case of *Wall* v. *Wall* (1847), 15 Sim. 513; 16 L. J. Eq. 305; 11 Jur. 403, it was held that an annuity "clear of all taxes and deductions" was not free of income tax; but this seems to have been decided on the ground that the Income Tax Acts did not allow the annuity to be given free of income tax, which proposition, as we have seen, is now untenable. This case would now be differently decided, as taxes would include income tax; see cases *supra*.

The Income Tax Act, 1842— 5 & 6 Vict. c. 35, s. 104.

104. And be it enacted, that whenever it shall be proved, to the satisfaction of the said respective Commissioners acting in the district where any person making the application shall reside, that any interest of money, annuity, or other annual payment shall be annually paid out of the profits and gains *bonâ fide* accounted for and charged by virtue of this Act at the rate and according to the rules specified in Schedule (D.), without any deduction on account thereof, it shall be lawful for such Commissioners to grant a certificate thereof, under the hands of any two of them, in such form as shall be provided under the authority of this Act, which certificate shall entitle the person so assessed, upon payment of such interest, annuity, or other annual payment, to abate and deduct so much thereof as a like rate on such interest, annuity, or other annual payment would amount unto; and every person to whom such interest, annuity, or other annual payment shall be paid shall allow such deductions and payments upon receipt of the residue of such interest, annuity, or other annual payment, and the person paying the same shall be acquitted and discharged of so much money as a like rate thereon would amount unto, as if the same had actually been paid unto the person to whom such interest, annuity, or other annual payment shall have been due and payable; provided no such certificate shall be required where such payments are to be made out of the profits or gains arising from lands, tenements, hereditaments, or heritages, as before mentioned, or of any office or employment of profit, or out of any annuity, pension, stipend, or any dividend or share in such public annuities as are herein mentioned, but such deductions may be made without having obtained such certificate.

Deductions on payment of interest of money, and other payments from profits charged under Schedule (D.), to be made by virtue of a certificate.

"Then comes sect. 104—a curious section, and one rather clumsily framed. It provides that, when it is proved to the satisfaction of the Commissioners 'that any annual payment shall be . . . . according to the rules specified in Schedule (D.),' a certificate may be granted entitling the persons so assessed, upon making the annual payment, to deduct a proportionate part of the duty; and then it goes on to say that 'no such certificate . . . . without having obtained such certificate.' So it came to this in the result, that a certificate was only required when the payment was to be made out of profits or gains chargeable under Schedule (D)." (Lord Macnaghten, in *London County Council* v. *Att.-Gen.*)

L. C. C. v. *Att.-Gen.*, [1901] A. C. 26.

The necessity for a certificate has ceased since—

The Income Tax Act, 1853— 16 & 17 Vict. c. 34, s. 40.

40. Every person who shall be liable to the payment of any rent, or any yearly interest of money, or any annuity or other annual payment, either as a charge on any property, or as a personal debt or obligation by virtue of any contract, whether

Deduction of duty on payment of rent, interest, &c.

the same shall be received or payable half-yearly or at any shorter or more distant periods, shall be entitled and is hereby authorized, on making such payment, to deduct and retain thereout the amount of the rate of duty which at the time when such payment becomes due shall be payable, for every twenty shillings of such payment; and the person liable to such payment shall be acquitted and discharged of so much money as such deduction shall amount unto, as if the amount thereof had actually been paid unto the person to whom such payment shall have been due and payable; and the person to whom such payment as aforesaid is to be made shall allow such deduction upon the receipt of the residue of such money, under pain of forfeiting the sum of 50*l.* for any refusal so to do. (Proviso with regard to tenants and occupiers under Schedule (A.), see *ante*, p. 147.)

L. C. C. v. *Att.-Gen.*, L. R. (1901) A. C. 39.

"A charge was made by the Act of 1853 in ease of the tax-payer. Sect. 40 of that Act had the effect of dispensing with the certificate of the Commissioners altogether. It authorized 'every person' liable to the payment of rent or yearly interest of money, or any other annual payment, on making such payment to 'deduct and retain thereout' the rate of duty then payable. It is obvious that that enactment was not a sufficient protection for the Crown. It contained no provision for cases where the annual payment was made out of gains or profits not brought into charge by virtue of the Act. And the person making the annual payment was not bound to make a deduction for income tax; if he did, he was apparently not bound to account to the Crown except in the case of payments out of rates under sect. 102 of the Act of 1842." Lord Macnaghten, in *London County Council* v. *Att.-Gen.*

Upon sect. 40 we have some observations to make, but before doing so it will be convenient to give the two following enactments.

5 & 6 Vict. c. 35, s. 158. When duties are to be detained.

The Income Tax Act, 1842—

158. Provided always, and be it enacted, that such of the said duties granted by this Act which may be detained or stopped and deducted out of the sums in respect whereof they shall be charged or deducted, shall be respectively detained at such times in each year as the said sums shall be payable to the person entitled thereto.

27 & 28 Vict. c. 18, s. 15.

By the Revenue (No. 1) Act, 1864—

15. "And whereas under and by virtue of 16 & 17 Vict. c. 34, s. 40, persons liable to the payment of rent, yearly interest, or any annuity or other annual payment therein mentioned, are entitled and authorized on making such payment to deduct and retain thereout the amount of the rate of income tax which shall be payable at the time when such payment becomes due": Be it enacted, that the persons liable to and making any such payment as aforesaid shall be entitled, and are hereby authorized to deduct and

retain thereout the amount of the rate or a proportionate amount of the several rates of income tax which were chargeable by law upon or in respect of such rent, interest, annuity, or other annual payment, or the source thereof, during the period through which the same was accruing due, anything in the said recited Act to the contrary notwithstanding.

Interest of Money, Annuities, and other annual Profits and Gains.

The question as to the meaning of these expressions is so intimately connected with the question of the deduction of the tax therefrom that we have found it necessary to complete the numerous sections dealing with the latter subject before attempting to deal with them.

They are charged under the last clause of Schedule (D.), "and for and in respect of all interest of money, annuities, and other annual profits and gains not charged by virtue of any of the other schedules contained in this Act."

In the original Schedule (D.) of the Act of 1842 there was no such clause as this (see p. 356), but the rest of the schedule was practically the same as the Schedule (D.) at present in force (Act of 1853).

Prior to 1853 the "annuities, yearly interest of money, or other annual payments" described in sect. 102 (*ante*, p. 251) were either charged under that section, or if that section is not a charging section they were charged under Schedule (D.) of the Act of 1842, though not specifically mentioned as in Schedule (D.) of the Act of 1853.

Origin of the last clause of Schedule (D.).

The origin of this additional clause in Schedule (D.) of the Act of 1853 is thus stated by Wood, V.-C., in *Bebb* v. *Bunny* :—

Wood, V.-C., in 1854, *Bebb* v. *Bunny*, 1 K. & J. 219.

"The authorities of the Inland Revenue Office say that this schedule was framed more particularly in reference to the case of public bodies, such as parochial boards, who have no income out of which interest is payable, and are not assessed to the duty, and, having to pay interest on bonds or the like, are not, therefore, parties entitled to deduct the tax under sect. 40; so that the tax becomes payable by the receiver of the interest under Schedule (D.)."

Now this additional clause has extended the scope of Schedule (D.) of the Act of 1842, because although it does not add annuities, interest of money, and other annual profits and gains, as fresh subjects of taxation, yet, at any rate, with regard to "interest of money," it has extended the meaning of the term by bringing a class of "interest" within the schedule which would not otherwise be chargeable. In *Clerical, Medical and General Life Assurance Society* v. *Carter*, Lord Esher, M. R., said:—

Lord Esher, M. R., in 1889, *Clerical, Medical and General Life Assurance Society* v. *Carter*, L. R. 22 Q. B. D. 449.

"There appears to be no such section in the Act of 1842 as sect. 1 (*a*) of the Act of 1853: but when we come to the Act of 1853 we find that sect. 1 of that Act does mention 'interest on money' as if it were a distinct and separate subject-matter of taxation. Having regard to that alteration in the Act of 1853, it seems to me that the contention that Schedule (D.) cannot possibly have been intended to add any subject-matter of taxation to those mentioned in the former Act, falls to the ground. Then when we come to Schedule (D.) we find the words 'and for and in respect of all interest of money.' Therefore, that which appears to be mentioned in sect. 1 as a separate subject-matter of taxation is again mentioned in Schedule (D.) in similar terms. Having regard to the terms of sect. 1 and the ordinary grammatical construction of the words of Schedule (D.), I cannot see my way to adding to the schedule any such words as have been suggested, or to reading the words as equivalent to 'for and in respect of all profits and gains, if any, in a trade or business arising from any interest of money.' That appears to me too large a paraphrase for us to make. I think we must read the words in their plain ordinary sense."

(*a*) Sect. 1 of the Income Tax Act, 1842, is repealed by the Statute Law Revision Act, 1875. It is given in the appendix.

Interest of Money.

Interest of money is not restricted to annual interest.

Leeds Permanent Benefit Building Society v. *Mallandaine*, [1897] 2 Q. B. 402.

A benefit building society lent money to borrowing members at a fixed rate of interest, and took from them a security on their property. The repayment of the loans was by weekly payments of a fixed sum, in respect of principal and interest, the proportion of interest to principal on each payment decreasing as time went on, and the principal remaining due decreased. No deduction was allowed to be made by the borrower in respect of income tax.

Held, that the expression "interest of money" in sect. 2 of the Income Tax Act, 1853, is not restricted to annual interest, and that the interest received by the society was not in respect of a loan on land, but of a contract relating to interest of money lent, and was, therefore, assessable in their hands to income tax.

It is not necessary that interest of money should be in the nature of profits. Thus, if I carry on a business which involves the investment of sums of money, though I make no profit from my business, I must pay income tax on the "interest of money" from my investments.

Fry, L. J., in *Clerical, Medical and General Life Assurance* v. *Carter*, L. R. 22 Q. B. D. 449.

"It seems to me comparatively immaterial what a man does with the money when he has received it; and I think 'profits or gains' are in many cases used by the Act of 1853 in reference to profits or gains of particular investments, and not necessarily to profits or gains of the trade of which those investments may be part": Fry, L. J., *Clerical, Medical and General Life Assurance* v. *Carter*.

The case was as follows:—

The interest arising from investments made by a life insurance company for the purposes of their business, income tax on which had been deducted at its source, exceeded the amount of the profits of the company for the year of assessment. The company had also during the year received interest on investments from which there had been no deduction for income tax.

Held, affirming the judgment of the Queen's Bench Division, that the company were liable to assessment to income tax in respect of such last-mentioned interest as "interest of money" within the last clause of Schedule (D.).

1906. *Revell* v. *The Edinburgh Life Insurance Co.*, 5 Tax Cas. 221.

The Crown in taxing an insurance company can disregard the profits and tax the interest on the investments. Such interest includes interest from which the tax has not been deducted.

Purchase-money.

1854. *Bebb* v. *Bunny*, 1 K. & J. 216.

A purchaser liable to pay interest on his purchase-money may deduct income tax from such interest. The tax is not deducted on payment of purchase-money into Court, but the purchaser, it seems, may apply to have it deducted when the purchase-money is paid out of Court.

Note that the tax cannot be deducted on payment of the purchase-money and interest into Court: *Holroyd* v. *Wyatt* (1847), 1 De G. & S. 125; 16 L. J. Ch. 174; *Dawson* v. *Dawson* (1848), 11 Jur. 984; *Humble* v. *Humble* (1849), 12 Beav. 43.

Wood, V.-C., in 1854, *Bebb* v. *Bunny*, 1 K. & J. 216.

The reason for this is given by Wood, V.-C., in *Bebb* v. *Bunny*: "On payment of purchase-money into Court the deduction has not been allowed, and for the very obvious reason, stated by Lord Langdale in *Duval* v. *Mount*, 35 Leg. Obs. 260, that payment into Court is not payment to the party as against whom the purchaser is entitled to deduct the tax. But the purchaser must apply for the deduction when the money is paid out of Court; and, of course, the Court cannot be subject to the penalty mentioned in sect. 40 for not allowing the deduction. In that case Lord Langdale expressly gave leave to apply, when the money should be paid out, though it does not appear whether the purchaser availed himself of such liberty."

Mortgage.

1863. *Mosse* v. *Salt*, 32 Beav. 269; 32 L. J. Eq. 756.

Though in dealings between merchants, in discounting bills and the like, and in loans made for short periods, the income tax is not deducted, yet, in a mortgage transaction, the mortgagor is entitled to deduct it.

In this case, Lord Romilly distinguishes between mortgages on the one hand, and bills of exchange and short loans on the other hand, as follows:—

"It is very true, that in dealings between merchants, such as in the discounting of bills and the like, and on loans made for short periods, the income tax is not deducted; but it is equally clear, that in the mode of taking the accounts (whatever it may be) in the city of London, and in the mode of taking the accounts in Chancery, in all cases of mortgagor and mortgagee, when the Court has once arrived at the conclusion that it is a case of mortgagor and mortgagee, the mortgagor is entitled to deduct the income tax from the interest paid to the mortgagee, which he necessarily has paid on the property mortgaged, either in the shape of deductions from his rents, or from his dividends prior to that period, and, accordingly, this is so provided by the Act."

Payment of Interest under a Decree.

1850. *Dinning* v. *Henderson*, 3 De G. & S. 702; 19 L. J. Ch. 273; 14 Jur. 1038.

In the course of the administration of the estate of a testator, a debt, in respect of a dishonoured bill of exchange, and nine years' interest on it, were found to be due from his estate to a creditor. It appeared that it was the practice in the Master's offices to deduct income tax in respect of the interest, and Knight Bruce, V.-C., refused to disturb such practice, although he thought that, according to the true construction of the Income Tax Act, the interest should have been allowed to be paid in full and the claimant left to pay the income tax.

This view is borne out by the more recent case of

1898. *Dunn* v. *Chambers*, 25 R. 688; 35 S. L. R. 537.

In an action at the instance of a ward for reduction of the sale of a part of her estate, which consisted of shares in a public company, the Court found that on repayment by the pursuer of the price received for the shares, with interest at 5 per cent., the pursuer would be entitled to restitution of the shares, with the dividends accruing thereon. The pursuer tendered payment of the price with 5 per cent. interest under deduction of income tax on the interest.

Held, that as between the pursuer and defender income tax did not fall to be deducted by the pursuer under sect. 40 of the Income Tax Act, 1853, from the interest payable by her.

Re National Bank of Wales, Ltd., [1899] 2 Ch. 629.

A former director of a banking company was ordered to pay to the liquidator of the company a sum of money, together with interest thereon at 5 per cent. per annum, on the ground that he had been guilty of a misfeasance in sanctioning the payment of dividends to the shareholders out of capital.

Held, by Wright, J., that the director was not entitled to deduct income tax from the interest, it being in the nature of damages.

Smith v. Law Guarantee and Trust Society, Ltd., [1904] 2 Ch. 569.

In a debenture-holder's action where payments under orders of the Court are made on account generally and it ultimately appears that the assets are insufficient to satisfy the principal of the debentures, no income tax can be deducted from such payments.

In *Bebb* v. *Bunny*, *supra*, Wood, V.-C., gave the following explanation of "yearly interest of money":—

"The whole difficulty is in the expression 'yearly' interest of money; but I think it susceptible of this view, that it is interest reserved, at a given rate per cent. per annum; or, at least, in the construction of this Act, I must hold that any interest which may be or become payable *de anno in annum*, though accruing *de die in diem*, is within the fortieth section. I cannot make any solid distinction between interest on mortgage money and interest on purchase-money."

Yearly interest of money. Wood, V.-C., in 1854, *Bebb* v. *Bunny*, 1 K. & J. 216.

On the strength of this dictum of Wood, V.-C., and the case of *Dinning* v. *Henderson*, 3 De G. & S. 702; 19 L. J. Ch. 273; 14 Jur. 1038, it was attempted to apply the words "yearly interest of money" to the case of interest on a loan by a banker to a customer for a period less than a year. The Court, however, declined to do this.

Loan by a Banker for Less than a Year.

1819. *Goslings and Sharpe* v. *Blake*, L. R. 23 Q. B. D. 324.

Interest upon a loan by a banker to a customer for a period of less than a year is not within the words "any yearly interest of money or any annuity or other annual payment" in 16 & 17 Vict. c. 34, s. 40; and therefore the customer is not entitled to deduct income tax from such interest.

And Bowen, L. J., said:

"In *Bebb* v. *Bunny*, the V.-C. expressly confines his judgment to interest at a yearly rate which may have to be paid *de anno in annum*, such as interest on purchase-money or mortgage interest."

In the same case, Lord Esher, M. R., expressed considerable doubt about the case of *Dinning* v. *Henderson*, *supra*, and considered that the bills of exchange dealt with in the Master's office must have borne interest on the face of them; but if they did not, he doubted the correctness of the decision. If the bills bore interest on the face of them, the interest runs on till payment, and so might run on over the year so as to be "yearly interest."

The following passage from Lord Esher's judgment is also instructive:—

"'Every person who shall be liable to the payment of any rent.' If that stood alone, that might be rent for less than a year; but it is followed by 'or any yearly interest of money, or any annuity or other annual payment.' Dealing with this according to ordinary English idiomatic language, I think that the word 'other' obliges us to say that an annual payment is an instance of the same kind as those that have gone before, so that what have gone before are in the nature of annual payments; but besides those, there are other annual payments which may be brought in. If that is so, 'any rent' becomes 'any annual rent.' 'Any yearly interest of money' surely cannot be interest for less than a year in ordinary English, and there remains 'any annuity,' which is admitted to be an annual thing, and any 'other annual payment.'"

Such interest is of course taxable profit in the hands of the banker, and the practice is to deal with it on taxation of the banker's profits. Presumably under the Customs and Inland Revenue Act, 1888, s. 24 (3) (*ante*, p. 259), the customer could, where that section is applicable, insist on retaining the tax and rendering an account to the Crown, but such a course is of no advantage to the customer, and obviously inconvenient. This, however, is the proper course in other cases to which that section applies. (See *The Lord Advocate* v. *Corporation of Edinburgh*, 6 Sc. Sess. Cas. (5th Series), 1; 4 Tax Cas. 626, *ante*, p. 260.)

The following cases have also been decided on the question as to whether certain interest is taxable:—

1853. *Udney* v. *The East India Co.*, 13 C. B. 733; 22 L. J. C. P. 260; 17 Jur. 107.

The Bengal Civil Service Annuity Fund is a fund formed in India, under the sanction of the East India Company, by the subscriptions of their civil

servants upon the Bengal establishment, augmented by contributions from the company; and a civil servant who has regularly subscribed to the fund, and retires after the regular period of service, becomes entitled to receive thereout an annuity of 10,000 rupees. The fund is invested in India and managed there by a committee of nine, four of whom are officially connected with the government. By an arrangement with the company, the annuitants have the option of receiving their annuity in India from the managers of the fund, or of being paid at the East India house in London, at the rate of 2*s.* per sicca rupee,—the company being in that case provided out of the fund with moneys for the purpose of making the payments.

The plaintiff, a retired civil servant, entitled to a pension of 1,000*l.* a year, whose permanent residence was in France, elected to receive his annuity in London.

Held, that the annuity was not subject to income tax, under the 5 & 6 Vict. c. 35, not being payable out of any fund in England, and that he might maintain an action for money had and received against the company, to recover sums deducted and retained by them in respect of such tax, and paid over to the Commissioners.

1880. *North British Railway Co.* v. *Abercorn (Duke of)*, 7 R. 419; 17 S. L. R. 270.

A railway company having taken land by virtue of their Act, agreed with the landowner that he, instead of giving his tenants an abatement of rent in respect of the land taken, should receive the full rent during the remainder of the leases, and that the company should settle the full tenants' claims, the landowner during that period paying the company 3 per cent. interest upon the compensation paid him to enable them to do so.

Held, that under sect. 102 of the Income Tax Act, 1842, the landowner was entitled to deduct income tax in paying the 3 per cent. to the company.

1884. *Blake* v. *Imperial Brazilian Railway*, 2 Tax Cas. 58.

A company undertakes to construct a railway in Brazil under a government guarantee of 7 per cent. It raises capital by debentures at 5½ per cent. and devotes the 7 per cent. to payment of debenture interest, and to the formation of a sinking fund to pay off the debentures.

Held, that the whole of the sum paid under the guarantee during construction is liable to income tax as interest of money.

Annuities and other Annual Profits and Gains.

Yearly instalments in payment of a debt are not included in the above, not being in the nature of profits and gains.

1856. *Taylor* v. *Evans*, 1 H. & N. 101; 25 L. J. Ex. 269.

By indenture the plaintiff, in consideration of 1,380*l.* to be paid by instalments, sold the defendant a coal mine for a term of fifty years. The defendant covenanted to pay the plaintiff 150*l.* on the execution of the indenture and 150*l.* per year after that time, but if a certain amount of coal should be worked in any year, the defendant was to pay a larger sum in proportion to the coal worked, until the whole sum of 1,380*l.* should be paid. No coal was worked by the defendant, who claimed to deduct income tax from an instalment.

Held, that the deduction could not be made; the defendant was not liable to be assessed, as he had never worked the mine; but if the defendant worked the mine and got coal, then he must pay the tax and deduct it from the payments made to the plaintiff. If this was an "annual payment" within sect. 102, the plaintiff was primarily liable.

1858. *Foley* v. *Fletcher*, 3 H. & N. 769; 28 L. J. Ex. 100; 5 Jur. (N. S.) 342; 7 W. R. 141.

F. being seised in fee of one moiety of certain mines, sold her share for 45,000*l.*, payable 3,885*l.* down, and the residue by half-yearly instalments of 768*l.* 11*s.* 8*d.* during a period of thirty years.

Held, that the instalments were not chargeable with income tax under the words "annual payments, payable as a personal debt or obligation, by virtue of any contract," in the 5 & 6 Vict. c. 35, s. 102, such instalments being the payment of a debt, and not being profits and gains, and therefore not within the purview of the Acts.

Secretary of State in Council of India v. *Scoble*, [1903] A. C. 299.

The Secretary of State for India had power by contract to purchase a railway, paying for the purchase the full value of all the shares or capital stock of the railway company, with the option of paying, instead of a gross sum, "an annuity" for a term of years, the rate of interest to be used in calculating the annuity being determined in a specified way. The Secretary of State purchased the railway, and exercised the option to pay an annuity instead of a gross sum. The annuity was paid half-yearly, each payment representing, as to part, an instalment of the purchase-money, and as to the rest, interest on the amount of the purchase-money unpaid.

Held, that the Income Tax Acts do not tax capital as income, and that income tax was not payable upon that part of the annuity which represented capital.

East Indian Railway Co. v. *Secretary of State in Council of India*, [1905] 2 K. B. 413.

The facts were similar to *Secretary of State in Council of India* v. *Scoble* (*supra*), but there were three railways, and, as regards one of them, the time for exercising the option to purchase had not expired, and so an agreement was entered into for the purchase of the railways for an annuity of 5*l.* 12*s.* 6*d.*, for which every 100*l.* stock of the company was commuted at the price of 125*l.*, calculated on the basis of 5*l.* 7*s.* 6*d.*, being interest at the rate of 4*l.* 6*s.* per cent. per annum on 125*l.* and 5*s.*, the amount required to be set aside and invested in order to produce 125*l.* in 1953. This was stated in an Act of Parliament.

Held, that the case was covered by *Secretary of State in Council of India* v. *Scoble* (*supra*), and that the above figures were no criterion as to the respective proportions of capital and interest in the annuity.

In all other cases, however, an annuity is taxable.

1890. *H. R. H. The Nizam State Railway Co.* v. *Wyatt*, L. R. 24 Q. B. D. 548.

By an agreement between the government of the Nizam of Hyderabad and an English company incorporated for the purpose of constructing a railway through his dominions, the government agreed to pay for twenty years to the company in London an annuity equal to 5 per cent. per annum on the issued capital, the company being bound by the agreement to apply the annuity in payment of interest at 5 per cent. per annum on the share capital paid up, and of interest at 4 per cent. per annum on the debentures of the company, and to pay over the balance, viz., 1 per cent. to trustees, to form a sinking fund for the redemption of the debenture capital. The company duly received the annuity and paid over such balance accordingly. They claimed to deduct the balance from an assessment on them to the income tax under 16 & 17 Vict. c. 34, Schedule (D.).

Held, that they were liable to be assessed to the income tax in respect of the whole amount of the annuity received by them, and were not entitled to any deduction in respect of the balance applied to the purposes of the sinking fund.

1902. *Dalrymple* v. *Dalrymple*, 4 F. 545; 39 S. L. R. 348.

Under a deed of separation a husband bound himself to make payment of 1,000*l.* per annum to his wife. The husband's whole income consisted of (1) an annuity of 3,000*l.*, paid to him by his father under his marriage settlement, and (2) voluntarily paid to him by his father. The wife disputed the husband's right to deduct income tax, because the father did not deduct income tax from any of the moneys paid to him and the Crown had made no claim.

Held, that the wife's annuity was subject to the deduction of income tax, and that the question whether the husband was bound to account for it to the Crown was a matter between him and the Crown with which the wife had no concern.

Observed, that the father could have deducted income tax from the moneys paid to the son, and that if he did not do so the amount was a gift to the son. See also *Shrewsbury* v. *Shrewsbury* (1906), 22 T. L. R. 598.

1905. *Delage and another* v. *The Nugget Polish Co., Ltd.*, 21 T. L. R. 454; 92 L. T. 682.

The plaintiffs, who were foreigners resident abroad, sold a secret process for the manufacture of a certain article to the assignors of the defendants upon the terms that the purchasers, their successors and assigns, should, for a period of forty years, pay annually to the plaintiffs a sum equal to 8*l.* per cent. of the gross receipts on the sale of articles made by the secret process. In 1903 the defendants deducted income tax at the current rate from the amount payable by them to the plaintiffs under the terms of the agreement.

Held, that the amount payable by the defendants was an "annual payment" within the meaning of sect. 40 (*a*), that it was payable out of "profits and gains," and that the defendants were entitled to deduct income tax.

(*a*) See *ante*, p. 265.

Chadwick v. *The Pearl Life Assurance Co., Ltd.*, [1905] 2 K. B. 507.

The plaintiff was the owner of the reversion of a leasehold interest in certain premises, part of which was let to the defendants. The net rent accruing to the plaintiff, after payment of rent to the superior landlord, was 1,625*l.* per annum. The plaintiff agreed with the defendant to sell him the reversion in consideration of the sum of 1,000*l.* and the execution of a deed whereby the defendant covenanted to pay to the plaintiff 1,625*l.* per annum to the end of the term. The defendant claimed to deduct income tax from the annual sum of 1,625*l.* under sect. 40 of the Income Tax Act, 1853.

Held, that the annual sum was not paid as an instalment of capital, but as an annuity, and that therefore the defendant was authorised to deduct income tax from it.

Payment of Salary under an Act passed prior to 1842, and to be "without any Deduction or Abatement for Taxes or otherwise howsoever," is subject to Deduction of Income Tax.

In re the School for the Indigent Blind at Liverpool, [1898] 2 Ch. 669.

Where a special public Act, incorporating a charity, passed previously to the Income Tax Act, 1842, provides for the payment of a salary to an official "without any deduction or abatement for taxes or otherwise howsoever," the official is not exonerated from income tax, but it must be deducted by the charity from his salary.

Alimony.

1842. *Pemberton* v. *Pemberton*, 2 Notes of Cas. 17.

Alimony decreed by Court. The husband was allowed to deduct income tax. (The tax was not in existence when the alimony was allotted.)

1845. *Frankfort* v. *Frankfort*, 4 Notes of Cas. 280.

Alimony decreed by Court. The husband was not allowed to deduct income tax, as the proportion of his income allotted to the wife had been estimated after deducting the tax from the income.

1895. *Warren* v. *Warren*, 72 L. T. 628; 43 W. R. 490; 13 R. 485.

Income tax may be deducted from an annuity by way of alimony secured by deed.

In re Barry's Trusts, Barry v. *Smart*, [1906] 2 Ch. 358, C. A.

Divorce suit compromised by deed of separation, which provided that the alimony should be determined by an arbitrator. Award carried out by deed settled by arbitrator.

Held, that the annuity payable under the award was subject to deduction of income tax.

Deduction of Tax. Failure to Deduct a Breach of Trust.

In re Sharp, Rickett v. *Rickett*, [1906] 1 Ch. 793.

Trustees of a will who pay annuities without deducting the income tax commit a breach of trust and are liable to make good the amounts. Their liability is limited to payments made within six years by the Trustee Act, 1888, s. 8, except in the case of payments made to themselves.

If the Deduction is not made at the Time when the Yearly Interest of Money, Annuity, or other Annual Payment is paid, it cannot afterwards be made.

This proposition seems to have the greater weight of authority to support it, although there are cases in conflict with it.

The cases which support it are—

1719. *Atwood* v. *Lamprey*, cited in note to *East* v. *Thornbury*, 3 P. Wms. 127.

An annuitant was not compelled to refund in respect of payment she had received tax free, and from which the party paying had omitted to deduct the tax.

1817. *Currie* v. *Goold*, 2 Mad. 163.

Where the agent of an executor paid interest on a legacy for seventeen years, without deducting the property tax, held, he could not afterwards deduct out of future interest due the amount of the property tax on such precedent payments.

1827. *Fraser* v. *Fraser*, 5 Shaw & Dunlop (Sc.), 348.

Interest having been paid for a series of years without deducting the tax, it is not competent to withhold payment of a balance to that extent—the debt on which the interest arose being originally a West India debt, and being payable in London, and it appearing that no such relief would be allowed in England, or at least that the party must go to the Courts there to seek such relief.

1864. *Ex parte Turner*, 11 L. T. 352; 13 W. R. 104.

A debtor, making payments to his creditor from time to time for interest, without deducting the property tax, will not be allowed, upon finally settling the debt, to deduct the amount of back payments in respect of such tax from the balance of the debt due at the time of settlement.

1885. *Re Middlesbrough Building Society*, 53 L. T. 492.

Deduction not allowed in respect of past payments of income tax on interest, the deduction of which had not been made at the proper time.

1893. *Galashiels Provident Building Society* v. *Newlands*, 20 R. 821; 30 S. L. R. 730.

If a debtor makes payment of interest without deducting the income tax, he loses the right to the deduction in respect of such interest (dub. Lord Kinnear).

1895. *Warren* v. *Warren*, 72 L. T. 628; 43 W. R. 490; 13 R. 485.

Where trustees under a deed had paid an annuity for some years without deducting the income tax, it was held that they could not deduct the past income tax, which they had omitted to deduct, from the next payment of the annuity.

The cases in conflict are—

1814. *Butcher* v. *Barclay*, Decisions of the Court of Session (Bell, Campbell, Wilson, and Rollo), 1814, p. 106. *18 Fac. Coll. 106*

Where a debtor, in consequence of an obligation in a bond granted by him for borrowed money, pays the interest without deduction of the property tax, he is, notwithstanding, entitled to deduct the same from any after payment of interest, together with the tax upon that particular payment.

1822. *Wilson* v. *Paterson*, 1 Shaw & Ballantine (Sc.), 431.

Wilson, having been charged on his bond for 100*l.* to the Horse-setters' Society, presented a bill of suspension, alleging that he was entitled to retain part of it in compensation of property tax, which he had neglected to deduct from interest formerly paid. To this it was answered, that the society fell under the exception of sect. 103 of the 46 Geo. III. c. 65, exempting friendly societies from payment of property tax. The Lord Ordinary refused the bill; but the Court passed it, upon consignation.

1823. *Corporation of Weavers of Ayr* v. *Bone*, 2 Shaw & Dunlop, 401.

The corporation in 1810 sold a piece of ground to Mrs. Bone, who granted a bond for part of the price, and for the interest. The interest was regularly paid till 1822, when the bond was discharged. The debtors, however, reserved a claim for property tax, which they had not hitherto deducted from the interest.

The inferior Court discerned for the amount, and the Lord Ordinary and the Court refused a bill of advocation.

1868. *Crane* v. *Kilpin*, L. R. 6 Eq. 334; 37 L. J. Eq. 913; 18 L. T. 350.

A fund was assigned to trustees upon trust to pay a fixed sum annually to creditors *pro rata* with interest on their debts till payment. In making the payments of interest no deductions were made for income tax.

In finally settling with his creditors, the assignor was held entitled to deduct the income tax on the several payments of interest. See also *Smith* v. *Alsop*, McClel. 623; 13 Price, 823.

See on this point sect. 158 of the Income Tax Act, 1842, *ante*, p. 266. See also the analogous cases under Schedule A., *ante*, p. 148.

See also *Brahan* v. *Strathmore*, 5½ L. J. Ch. 165.

Exemptions.

The Income Tax Act, 1842—

5 & 6 Vict. c. 35, s. 105. Charitable institutions exempted from the duties on interest chargeable under Schedule (D.).

105. Provided always, and be it enacted, that any corporation, fraternity, or society of persons, and any trustee for charitable purposes only, shall be entitled to the same exemption in respect of any yearly interest or other annual payment chargeable under Schedule (D.) of this Act, in so far as the same shall be applied to charitable purposes only, as is hereinbefore granted to such corporation, fraternity, society, and trustee respectively, in respect of any stock or dividends chargeable under Schedule (C.) of this Act, and applied to the like purposes; and such exemption shall be allowed by the Commissioners for Special Purposes, on due proof before them, and the amount of the duties which shall have

been paid by such corporation, fraternity, society, or trustee in respect of such interest or yearly payment, either by deduction from the same or otherwise, shall be repaid, under the order of the said Commissioners for Special Purposes, in the manner hereinbefore provided for the repayment of sums allowed by them, in pursuance of any exemption contained in the said Schedule (C.).

1887. *St. Andrew's Hospital, Northampton* v. *Shearsmith*, L. R. 19 Q. B. D. 624.

The managing committee of a hospital, founded by voluntary contribution for the care and treatment of insane persons, made large yearly profits by receiving wealthy patients, who were charged sums greatly exceeding the actual cost of their maintenance and treatment. The committee applied a portion of those profits in aid of the maintenance and treatment of poorer patients, who were themselves unable to pay the actual cost thereof, and the remainder in executing works which were pressed upon the committee by the Commissioners in Lunacy, and were deemed necessary to bring the hospital into a proper state of efficiency.

Held that, assuming the profit was yearly interest or other annual payment (which it was thought was not so), it was not "applied to charitable purposes only" within sect. 105: followed in 1888, *Needham* v. *Bowers*, L. R. 21 Q. B. D. 436, without argument.

1890. *The Trustees of Psalms and Hymns* v. *Whitwell* (*Surveyor of Taxes*), 3 Tax Cas. 7; 7 T. L. R. 164.

Trustees publish a hymn book, and, in accordance with the directions of the trust deed, distribute the profits among widows and orphans of Baptist ministers and missionaries.

Held, that trading profits are not an "annual payment" within sect. 105, so as to be exempt from income tax when applied to charitable purposes.

16 & 17 Vict. c. 34, s. 49. Friendly societies legally established entitled to exemption under both Schedule (C.) and Schedule (D.).

The Income Tax Act, 1853—

49. Any friendly society legally established under any Act of Parliament relating to friendly societies, and which does not assure or grant to any individual any sum or annuity to an amount which would debar such society from the benefit of the exemption granted to friendly societies by the said Act of the fifth and sixth years of her Majesty, chapter thirty-five, in respect of their stocks, dividends, and interests chargeable under Schedule (C.) of the said Act, shall be entitled to exemption under this Act, as well in respect of all their interest and other profits and gains chargeable under Schedule (D.) as in respect of their stocks, dividends, and interest chargeable under Schedule (C.) of this Act.

57 & 58 Vict. c. 30, s. 36. Exemption of income tax in favour of savings banks. 26 & 27 Vict. c. 87.

The Finance Act, 1894—

36.—(1.) Any penny savings bank, or other bank for savings, whether certified under the Savings Bank Act, 1863, or not, shall be entitled to exemption from income tax chargeable under Schedules (C.) and (D.) of the Acts relating to income tax in respect of the income of the funds of the savings bank, so far as it is applied in the payment or credit of interest to any depositor not

exceeding the sum of five pounds in the year for which exemption is claimed.

(2.) The exemption shall be claimed, proved, and allowed, in the same manner as is prescribed by law in the case of income applicable and applied to charitable purposes.

(3.) Provided that where interest is paid, or dividends or interest are or is accredited without deduction of income tax to a depositor in any savings bank whose income exceeds one hundred and sixty pounds a year, such interest, or dividends or interest, as the case may be, shall be accounted for and charged under the third case of Schedule (D.), under which profits of an uncertain annual value are directed to be charged.

There are certain funds of trade unions which are exempt under Schedule (D.). The Act is given under Schedule (A.): see p. 159.

The Industrial and Provident Societies Act, 1893—

56 & 57 Vict. c. 39, s. 24. Exemption of industrial and provident societies.

24. A registered society shall not be chargeable under Schedules (C.) and (D.) of the Income Tax Acts unless it sells to persons not members thereof, and the number of shares of the society is limited either by its rules or its practice. But no member of or person employed by the society shall be exempt from any assessment to the said duties to which he would be otherwise liable.

Application of the Rule to Co-operative Societies.

So-called co-operative societies, such as the Army and Navy Stores, which are really ordinary trading concerns, and the profits of which go to the shareholders just as they do in the case of any other limited company, are directly assessed to income tax, and enjoy no exemption or privilege whatsoever.

Co-operative societies which are associations of consumers selling goods by retail to their members at slightly above the wholesale price and returning the profit to such members as a bonus in proportion to their purchases are not assessable to income tax. The object of such societies is to secure for their members low price and good quality in articles of common use by eliminating the profit of the trader. The bonus or dividend arises from the fact that the prices charged by the society to its members are in excess of the cost price. This is clearly not profit, but merely a return to members of sums which they have paid for their goods in excess of the cost price. In so far as such societies make profits by dealing with non-members, they are liable to income tax unless they are registered under sect. 24 of the Industrial and Provident Societies Act, 1893, and the number of shares of the society is not limited either by its rules or its practice. As a rule, however, the sales to non-members form a quite insignificant part of the business done by such societies, and as the profits from such sales are divided amongst the members, most of whom are persons whose incomes do not exceed 160*l.*, it follows that in many cases nothing is effected by taxation, for, if the society is taxed, the members whose income does not exceed 160*l.* can recover the tax. Even if the society is exempt from taxation under sect. 24 of the Industrial and Provident Societies Act, 1893, the individual members with incomes exceeding 160*l.* and in receipt of profits from dealings with non-members or interest from capital invested in the society are liable to income tax.

The exemption under sect. 24 is, therefore, merely a variation in the machinery of collection in order that the Revenue authorities may avoid the enormous number of small applications for repayment which would result if the society were taxed.

16 & 17 Vict. c. 34, s. 54. Persons who have made insurance or contracted for a deferred annuity on the lives of themselves or wives to be allowed an abatement of duty in respect of the annual premiums paid.

The Income Tax Act, 1853—

54. Any person who shall have made insurance on his life or on the life of his wife, or shall have contracted for any deferred annuity on his own life or on the life of his wife, in or with any insurance company which shall become registered under any Act to be passed in the present session of Parliament for that purpose, and which shall comply with the requirements of such Act, and any person who shall under any Act of Parliament be liable to the payment of an annual sum, or to have an annual sum deducted from his salary or stipend, in order to secure a deferred annuity to his widow or a provision to his children after his death, shall be entitled to deduct the amount of the annual premium paid by him for such insurance or contract, or the annual sum paid by him or deducted from his salary or stipend as aforesaid, from any profits or gains in respect of which he shall be liable to be assessed under either of the Schedules (D.) or (E.) of this Act, or to have any assessment which may be made upon him under either of the said schedules reduced or abated by the deduction of the amount of the said annual premium from the amount of the profits or gains on which such assessment has been made; or if such person shall be assessed to duties under any of the schedules contained in this Act, and shall have paid such assessment, or shall have paid or been charged with any of the said duties by deduction or otherwise, such person, on claim made to the Commissioners for Special Purposes, and on production to them of the receipt for such annual payment, and on proof of the facts to the satisfaction of the said Commissioners, shall be entitled to have repaid to him such proportion of the said duties paid by such person as the amount of the said annual premium bears to the whole amount of his profits and gains on which he shall be chargeable under all or any of the schedules of this Act: Provided always, that no such abatement, allowance, or repayment as aforesaid shall be made in respect of any such annual premium beyond one-sixth part of the whole amount of the profits and gains of such person so chargeable as aforesaid, nor shall any such deduction or abatement entitle any such person to claim total exemption or any relief from duty on the ground of his profits and gains being thereby reduced below one hundred or one hundred and fifty pounds, as the case may be.

Hunter v. *The King*, [1904] A. C. 161.

The suppliant effected an insurance on his life for 1,500*l.* upon the terms that the annual premium for the first seven years should be 66*l.*, and that

the insurers should in each year advance to him by way of loan one-half of that sum on which he should pay interest and be liable to repay it. The advances were to be a first charge on the policy. In each of the first three years the suppliant paid 33*l.* in cash in respect of the premium, and was debited with the remaining 33*l.* as a loan, and he paid interest annually in respect of these loans.

Held, that the suppliant had not paid an annual premium of 66*l.*, and was only entitled to deduct from his assessment the sum of 33*l.* which he had paid in cash.

The Finance Act, 1904— 4 Edw. 7, c. 7.

Relief from income tax on insurances with colonial companies.

9. Section 54 of the Income Tax Act, 1853 (under which relief is granted in respect of premiums on life insurances or contracts for deferred annuities), shall apply in relation to life insurances or contracts for deferred annuities effected in or with any insurance company legally established in any British possession as it applies in relation to life insurances or contracts in or with the insurance companies mentioned in that section.

The Revenue Act, 1906— 6 Edw. 7, c. 20.

Extension of provisions of 4 Edw. 7, c. 7, s. 9, as to relief from income tax on premiums on insurances.

11. The provisions of sect. 9 of the Finance Act, 1904, shall apply in relation to life insurances or contracts for deferred annuities effected in or with any insurance company lawfully carrying on business in Great Britain or Ireland, and accordingly such section shall be read and construed as though the words "or lawfully carrying on business in Great Britain or Ireland" were inserted therein after the words "British possession."

The Income Tax (Insurance) Act, 1853— 16 & 17 Vict. c. 91, s. 1.

Whereas by the Act of the present session (chapter thirty-four) for granting to her Majesty duties on profits arising from property, professions, trades, and offices (section fifty-four), provision is made for deduction, abatement, allowance, or repayment in favour of any person (assessed or charged with the duties therein mentioned) who shall have made insurance on his life, or on the life of his wife, or should have contracted for any deferred annuity on his own life, or on the life of his wife, in or with any insurance company which should become registered under any Act to be passed in the present session of Parliament for that purpose, and which should comply with the requirements of such Act (in respect of the annual premiums paid by him for such insurance or contract):

Defining insurance offices in which insurance on lives may be

1. Any person who shall have made any such insurance or contracted for any such deferred annuity as in the said provision mentioned, in or with any insurance company existing on the first day of November, 1844, or in or with any insurance company

effected in order to give a right to abatement of income tax.

registered pursuant to the 7 & 8 Vict. c. 110, for the registration, incorporation, and regulation of joint stock companies, shall be entitled to all the benefits and advantages, which by the said provision are expressed to be given in respect of the like insurance or contract in or with any insurance company which shall become registered under any Act to be passed in the present session of Parliament for that purpose.

The rest of this Act is repealed by the Statute Law Revision Acts, 1875 and 1892.

1890. *Colquhoun* v. *Heddon*, L. R. 25 Q. B. Div. 129.

This provision does not apply to an insurance with a foreign company, even though that company were in existence on November 1st, 1844, and have an office in England.

18 & 19 Vict. c. 35, s. 1. Persons having made insurances with friendly societies to be entitled to benefits of recited Acts.

The Income Tax (Insurance) Act, 1855—

1. Any person or persons who shall have made any such insurance or contracted for any such deferred annuity as in the said recited Acts mentioned, in or with any friendly society legally established under any Act of Parliament relating to friendly societies, shall be entitled to all the benefits and advantages conferred by the said recited Acts (*a*).

(*a*) 16 & 17 Vict. c. 91, and 17 & 18 Vict. c. 40 (repealed by Statute Law Revision Act, 1875). The rest of this Act is repealed by the Statute Law Revision Acts, 1875 and 1892, and the Revenue Act, 1903.

3 Edw. 7, c. 46. Income tax allowance on friendly societies' insurance premiums. 18 & 19 Vict. c. 35.

The Revenue Act, 1903—

10.—(1.) The proviso to section one of the Income Tax (Insurance) Act, 1855 (which limits the income tax allowances for premiums in respect of insurances with friendly societies), shall cease to have effect, but, where the premiums payable in respect of any insurance to which that section extends are made for shorter periods than three months, the production of a certificate signed by an officer of the society to the surveyor of taxes for the district, specifying the correct amount of premiums paid during the year, shall be a condition of obtaining relief under that section.

(2.) If any person wilfully gives or produces a false certificate under this section he shall forfeit the sum of 50*l*., and that sum may be recovered as a penalty under sect. 21 of the Taxes Management Act, 1880.

43 & 44 Vict. c. 19.

22 & 23 Vict. c. 18, s. 6. Provision for allowance of duty to per-

The Income Tax Act, 1859—

6. "And whereas by the 54th section of 16 & 17 Vict. c. 34, provision is made for deduction, abatement, allowance, or repay-

ment of duty in favour of any person who should have contracted for any deferred annuity on his own life or on the life of his wife in or with any such insurance office as in the said Act mentioned." The benefit and advantage of such provision shall be and is hereby extended and granted to any person who has or shall have contracted for any such deferred annuity as aforesaid with the Commissioners for the Reduction of the National Debt.

sons in respect of deferred annuities extended to those contracted for with National Debt Commissioners.

The rest of this Act, except sect. 7, which does not relate to income tax, is repealed by the Statute Law Revision Acts, 1875 and 1892.

Procedure.

The Income Tax Act, 1842—

5 & 6 Vict. c. 35, s. 106.

106. And be it enacted, that every person being a householder (except persons engaged in any trade, manufacture, adventure, or concern, or any profession, employment, or vocation,) shall be charged to the said duties contained in Schedule (D.) by Commissioners acting for the parish or place where his dwelling-house shall be situate; and every person engaged in any trade, manufacture, adventure, or concern, or any profession, employment, or vocation, shall be chargeable by the respective Commissioners acting for the parish or place where such trade, manufacture, adventure, or concern shall be carried on, or where such profession, employment, or vocation shall be exercised, whether such trade, manufacture, adventure, or concern shall be carried on, or such profession, employment, or vocation shall be exercised, wholly or in part only in the United Kingdom (*a*), or whether such person shall be engaged in one only or more of such concerns, except where the same person shall be engaged in different concerns, and a loss from one concern shall be set off or deducted from the profits of another concern; and every person not being a householder, nor engaged in any trade, manufacture, adventure, or concern, nor in any profession, employment, or vocation, who shall have any place of ordinary residence, shall be charged by the Commissioners acting for the parish or place where he shall ordinarily reside; and every person not hereinbefore described shall be charged by the Commissioners acting for the parish or place where such person shall reside at the time of beginning to execute this Act in each year by giving such general notices as are herein mentioned (*b*), or shall first come to reside after the time for giving such general notices; and every such charge made in such parish or place shall be valid and effectual, notwithstanding the subsequent removal of the person so charged from the parish or place; and in order that the place where the said last-mentioned

In what districts the duties are to be charged.

Declaration to be deli-

vered of the place where party is chargeable.

duties are to be charged may be ascertained, every person is hereby required, on the delivery of any list or statement as aforesaid, at the same time to deliver a declaration in writing signed by him declaring in what place he is chargeable, and whether he is engaged in any trade, manufacture, adventure, or concern, or in any profession, employment, or vocation, or not, and if he shall be so engaged in any trade, manufacture, adventure, or concern, or any profession, employment, or vocation, also declaring the place where the same shall be carried on or exercised, and every particular concern, profession, or employment in which he shall be engaged in such place in the United Kingdom (*a*), whether wholly in the United Kingdom (*a*), or in part only, as aforesaid; provided that where any trade shall be carried on in the United Kingdom (*a*) by the manufacture of goods, wares, or merchandise, the assessment thereon shall be at the place of manufacture, although the sales of such goods, wares, or merchandise shall be elsewhere: Provided always, that every person not being engaged in any trade, manufacture, adventure, or concern, or in any profession, employment, or vocation, having two or more houses or places at which he shall be ordinarily resident, shall be charged at such of the parishes or places wherein the dwelling-house is situate in which he shall be ordinarily resident at the time of beginning to execute this Act in each year in manner aforesaid, or in which he shall first come ordinarily to reside after giving such general notices as aforesaid.

In cases of persons not engaged in trade having two residences, where the duties to be charged.

16 & 17 Vict. c. 34, s. 7.

(*a*) As to Ireland, see the Income Tax Act, 1853, s. 7, *ante*, p. 245.
(*b*) See p. 54 *et seq.*

5 & 6 Vict. c. 35, s. 108. Duties on profits of foreign or colonial possessions or securities, where to be charged.

108. And be it enacted, that the duty to be assessed by virtue of this Act in respect of the profits or gains arising from foreign possessions or foreign securities, or in the British plantations in America, or in any other of her Majesty's dominions, may be stated to and assessed by the respective Commissioners acting for the respective places hereinafter mentioned, *videlicet*, London, Bristol, Liverpool, and Glasgow, according to the regulations hereinafter mentioned, as if such duty had been assessed upon the profits or gains arising from trade or manufacture carried on in such places respectively; and such duty shall be stated to and assessed and charged by the Commissioners acting for such of the said places at or nearest to which such property shall have been first imported into the United Kingdom, or at or nearest to which the person who shall have received such remittances, money, or value from thence, and arising from property not imported as aforesaid, shall reside; and in default of the owner or proprietor thereof being charged, the trustee, agent, or receiver of such

profits or gains shall be charged for the same, and shall be answerable for the doing all such acts, matters, and things as shall be required by this Act to be done, in order to the assessing such profits to the duties granted by this Act, and paying the same, whether the person to whom the said profits belong shall be resident in the United Kingdom or not: Provided always, that whenever the produce or the profits or gains arising from such possessions or securities as last aforesaid shall have been imported partly into the port of London, and partly into any of the outports of Bristol, Liverpool, or Glasgow, or shall have been received by any person partly in the City of London and partly in any of the said outports, within the period of making up the account on which the duty is chargeable by this Act according to the rules herein contained, the whole of the duty chargeable in respect of such produce, profits, or gains so imported or received shall be assessed and charged by the Commissioners acting for the said City of London, and not elsewhere, and as if the whole of the said produce or the said profits or gains arising within the said period had been imported into or received in London: and whenever such produce or profits or gains arising as aforesaid shall have been within such period wholly imported into or received at the said outports of Bristol, Liverpool, and Glasgow, and different parts thereof shall have been imported into or received at two or more of such outports, the duty chargeable thereon shall be assessed and charged at one of such places only, and in one account, and at such of the said places at which the major part in value of such produce or profits or gains shall have been so imported or received; provided that the statements of such produce, profits, or gains shall be delivered to the Commissioners acting for each place at which any part of the said produce or profits or gains shall have been so imported or received, and transmitted by the respective Commissioners to the Chief Office of Inland Revenue in England, and the Commissioners of Inland Revenue shall cause all such statements to be sent to the Commissioners acting for the place where the duty thereon shall appear by such statements to be chargeable according to this Act, who shall accordingly assess the same in one sum.

5 & 6 Vict. c. 35, s. 109. London and East and West India Docks and St. Katharine Dock to be assessed in London.

109. And be it enacted, that the profits arising from the docks called the London Docks, the East and West India Docks, and Saint Katharine Dock respectively, situate in the county of Middlesex, shall be assessed by the Commissioners acting for the City of London.

5 & 6 Vict. c. 35, s. 110. Statements to be delivered at each place of residence.

110. And be it enacted, that every person having two residences, or carrying on any trade or exercising any profession in different parishes, places, or in any place different from the place of his ordinary residence, shall if required by the respective Commissioners, deliver at each such parish or place the like lists, declarations, and statements as he is hereby required to deliver in the parish or place where such person ought to be charged, but shall not be liable to any double charge by reason thereof; and all lists, declarations, and statements containing the amount of profits chargeable under Schedule (D.) may be delivered to the respective persons and in manner herein directed, sealed up, if superscribed with the name and place of abode of, or place of exercising the profession or carrying on trade by, the person by whom the same shall have been made.

Statements of profits under Schedule (D.) may be delivered under seal.

5 & 6 Vict. c. 35, s. 111. Additional Commissioners to consider statements, and make assessments on such as are satisfactory.

111. And be it enacted, that all statements of profits and gains described in Schedule (D.) (except statements whereon assessments are to be made by the Commissioners for Special Purposes, as hereinafter authorized,) shall be laid before the additional Commissioners, or the Commissioners for General Purposes acting as additional Commissioners in their respective districts, who shall appoint meetings for taking all statements then and from time to time to be delivered to them into consideration, within a reasonable time after the inspector or surveyor shall have had the examination of such statements; and in case the said additional Commissioners respectively shall be satisfied that any such statements have been *bonâ fide* made according to the provisions of this Act, and so as to enable the Commissioners to charge the respective persons returning the same with the full duties with which they ought respectively to be charged on account thereof, and in case no information shall be given to the said Commissioners of the insufficiency thereof, or no objection shall be made thereto by the inspector or surveyor, which he is hereby empowered to make for sufficient cause, the said Commissioners shall direct an assessment to be made of the duties chargeable on such statement by virtue of this Act.

5 & 6 Vict. c. 35, s. 112. Where the surveyor is dissatisfied with an assessment, he may require a case to be stated for the opinion of

112. Provided always, and be it enacted, that where the surveyor or inspector shall apprehend the determination made by the said Commissioners to be contrary to the true intent and meaning of this Act, and shall then declare himself dissatisfied with such determination, it shall be lawful for him to require the said Commissioners to state specially and sign the case upon which the question arose, together with their determination thereupon, which case the said Commissioners are hereby required to state and sign

accordingly, and to deliver to the said inspector or surveyor, to be by him transmitted to the Commissioners for General Purposes for the same district, who shall with all convenient speed return an answer to the case so transmitted, with their opinion thereon subscribed; and according to such opinion the assessment which shall have been the cause of such appeal shall be altered or confirmed. the General Commissioners.

113. And be it enacted, that in every instance in which any person shall have made default in the delivery of any statement, such person not having been otherwise charged to the said last-mentioned duties, or if the said additional Commissioners shall not be satisfied with the statement delivered by any person or any objection shall be made thereto by the inspector or surveyor, (which he is hereby authorized and required to make in writing, setting forth the cause thereof, whenever he shall see sufficient cause,) or the said Commissioners shall have received any information of the insufficiency of any statement, the said Commissioners shall make an assessment on such person in such sum as, according to the best of their judgment, ought to be charged on him by virtue of this Act, which assessment shall be subject to an appeal, according to the directions hereinafter contained. 5 & 6 Vict. c. 35, s. 113. When no statement or no sufficient statement is returned, the additional Commissioners to make an assessment according to the best of their judgment.

114. And be it enacted, that whenever the additional Commissioners shall think it proper to refer any statement to the Commissioners for General Purposes without making any assessment thereon, it shall be lawful for them so to do on delivering to the last-mentioned Commissioners the case in writing relative to such statement, as the same shall appear to the said additional Commissioners, with any matter in question between them, either as to law or fact; and the said Commissioners for General Purposes shall proceed to inquire into the merits of such statement, in like manner as they would have been hereby authorized to do in case the said additional Commissioners had made an assessment on such statement, and the party charged had appealed against the same, and thereupon an assessment shall be made according to the determination of the said Commissioners for General Purposes. 5 & 6 Vict. c. 35, s. 114. Additional Commissioners may refer statements to Commissioners for General Purposes.

115. And be it enacted, that the inspector or surveyor, being sworn as aforesaid, shall and may at all seasonable times inspect and examine any assessment which shall be made by the additional Commissioners, before the delivery thereof to the Commissioners for General Purposes, and in case he shall discover any error in the same which in his judgment shall require amendment, he shall certify the same to the said additional Commissioners by whom the 5 & 6 Vict. c. 35, s. 115. Inspector and surveyor may examine assessments, and erroneous assessment may be amended on their certificate.

assessment shall have been made, and the said additional Commissioners, upon sufficient cause being shown to them, shall amend the same as in their judgment the case shall require.

43 & 44 Vict. c. 19, s. 52.

As to additional first assessments under Schedule (D.), see the Taxes Management Act, 1880, s. 52, p. 70.

5 & 6 Vict. c. 35, s. 116. Inspector or surveyor to state his objections to assessments, in writing, and to give notice to the party.

116. And be it enacted, that in every case where the inspector or surveyor shall object to the amount of the duty charged by any assessment made by the additional Commissioners, which he is hereby empowered to do in any case upon sufficient cause, he shall state such objection in writing to the said additional Commissioners, who shall thereupon certify the same, together with the reasons for making such assessment, and any information they shall have obtained respecting the same, to the Commissioners for General Purposes; and the said inspector or surveyor shall also give such notice thereof to the party assessed as he is required to do by the Taxes Management Act, 1880, in cases of surcharge (*a*), in order that the party so charged may be at liberty to appear before the said Commissioners for General Purposes in support of such assessment.

43 & 44 Vict. c. 19, s. 63.

43 & 44 Vict. c. 19, s. 63.

(*a*) See the Taxes Management Act, 1880, s. 63, p. 72.

5 & 6 Vict. c. 35, s. 117. Additional Commissioners to deliver certificates of assessments.

117. And be it enacted, that the said additional Commissioners shall cause certificates of assessments to be duly made out, from time to time as the same shall be completed, distinguishing the ward, parish, or place within their respective districts for which each such assessment shall be made, which shall contain the names and surnames of the parties charged, and the sums which they respectively ought to pay by virtue of this Act, and shall cause such certificates to be entered in books provided for that purpose, according to such forms as shall be transmitted to them by the Commissioners of Inland Revenue; and the said additional Commissioners shall sign such assessments, and from time to time deliver the same, so entered and signed, to the Commissioners for General Purposes, under cover sealed up, and shall also cause the statements returned to them by the parties so assessed, or by the assessors relating to such assessments, to be delivered at the same time, sealed up in the like manner, to the said Commissioners for General Purposes; provided that no assessment made by additional Commissioners, or persons acting as such, shall be delivered to the respective parties until the expiration of fourteen days after the assessment, so signed as aforesaid, shall have been delivered to the Commissioners for General Purposes, or the persons acting as such, and the inspector or surveyor shall have had notice thereof.

118. And be it enacted, that if any person shall think himself aggrieved by an assessment made by the said additional Commissioners, or by any objection to such assessment made by any surveyor or inspector as aforesaid, it shall be lawful for him, on giving ten days' notice thereof in writing to the inspector or surveyor, to appeal to the Commissioners for General Purposes in the same district where such assessment was made, who shall hear and determine such appeal; and the Commissioners for General Purposes shall from time to time appoint days for hearing appeals as soon after any assessments shall be returned to them by the additional Commissioners as conveniently can be done, and the assessors shall cause notice of the days so appointed to be given to the respective appellants, and the meetings of the Commissioners for the purpose of hearing appeals shall be held from time to time, within the time limited by the said Commissioners, with or without adjournment; and no appeal shall be received after the time so limited, except on the ground of diminution of income, as herein mentioned: Provided always, that if any person shall be prevented, by absence, sickness, or other reasonable cause, to be allowed by the said Commissioners, from making or proceeding upon his appeal within the time so limited, it shall be lawful for the said Commissioners to give further time for that purpose, or to admit the same to be made by any agent, clerk, or servant on the behalf of such appellant.

5 & 6 Vict. c. 35, s. 118. Persons aggrieved may appeal.

For fixing the time for hearing appeals.

As to the general procedure on appeals, see the Taxes Management Act, 1880, s. 57. See p. 75.

43 & 44 Vict. c. 19, s. 57.

119. And be it enacted, that in order that all appeals upon such assessments may be determined in due time, the Commissioners for General Purposes shall cause a general notice to be fixed up in their office or left with their clerk, and also to be affixed on or near to the door of the church or chapel of such parish or place, or of some adjoining parish or place, in cases requiring the same by reason of any such place having no church or chapel, limiting the time for hearing all appeals, and which appeals shall be limited to be heard within a reasonable time after the cause thereof shall have arisen; and no appeal shall be heard after the time limited in such notice, unless the appeal shall be made on behalf of any person who shall be absent out of the realm, or prevented by sickness from attending in person within the time so limited, in which cases it shall be lawful for the said Commissioners to postpone any such appeal from time to time, or to admit other proof than the oath of the party of the truth of the several matters required by this Act to be proved by his oath.

5 & 6 Vict. c. 35, s. 119. Notice to be given of the time limited for hearing appeals.

5 & 6 Vict. c. 35, s. 120. On appeal, and when objection made by the surveyor is allowed, the Commissioners to require a schedule.

120. And be it enacted, that upon receiving notice of appeal against any assessment made as last aforesaid, and also in every case where the Commissioners for General Purposes shall see cause to allow the objection of such inspector or surveyor to such assessment, the said Commissioners shall direct their precept to the person appealing to return to them, within the time limited therein, a schedule containing such particulars as the said Commissioners shall demand, under the authority of this Act, for their information, respecting the property of such person, or the trade, manufacture, adventure, or concern in the nature of trade, or the profession, employment, or vocation respectively carried on or exercised by such person, and the amount of the balance of his profits and gains, distinguishing the particular amounts derived from each separate source before mentioned, or respecting the particulars of the deductions from any of such profits or gains made in such statements or schedules, and which the said Commissioners are hereby empowered and required to demand, at their discretion, whenever the same shall appear to them necessary for the purposes mentioned in this Act, and so from time to time until a complete schedule, to the satisfaction of the said Commissioners, of all the particulars required by them, shall be delivered; and every such precept, being delivered to or left at the last or usual place of abode of the person to whom the same shall be directed, shall be binding upon him according to the exigency thereof; or in case such person shall have removed from the jurisdiction of the said Commissioners, or cannot be found, or his place of abode shall not be known, then, upon fixing such precept on or near to the door of the church or chapel of the place where the Commissioners shall meet in the execution of this Act, such precept shall also be binding upon such person according to the exigency thereof, and such person shall make the return required by the said Commissioners within the time limited in such precept, under the penalty in this Act contained, and subject to such charge as the said Commissioners are hereby authorized to make in such case; to which schedule any inspector or surveyor sworn as aforesaid shall have free access at all reasonable times, and shall take such copies thereof or of any parts thereof or extracts from the same, as he shall think necessary for the due execution of this Act.

5 & 6 Vict. c. 35, s. 121. Inspector or surveyor may object to statements in schedule, giving notice to the party.

121. And be it enacted, that it shall be lawful for the inspector or surveyor, sworn as aforesaid, within a reasonable time to be allowed by the said Commissioners for General Purposes, after he shall have had the examination of such schedules, to object to the same or any part thereof, and to state such objections in writing,

and the cause thereof, to the best of his knowledge or information; and the said inspector or surveyor shall, in every case of objecting to any such schedule, deliver a notice in writing of such objection to the party to be charged, or leave the same at his last or usual place of abode, under cover sealed up and directed to such party, in order that he may, if he shall think fit, appeal from the same to the said Commissioners: Provided always, that no assessment shall be confirmed, nor any alteration therein be made, until the appeal upon such objection or assessment shall be heard and determined.

5 & 6 Vict. c. 35, s. 122. Commissioners overruling objection, or satisfied with the assessment or schedule, may confirm or alter the assessment accordingly.

122. And be it enacted, that if, upon receiving the objection of such inspector or surveyor to any schedule, the said Commissioners for General Purposes shall see cause to disallow such objection, or if, upon the hearing of any such appeal as aforesaid, the said Commissioners shall be satisfied with the assessment made by the additional Commissioners, or after delivery of a schedule they shall be satisfied therewith, and shall have received no information of the insufficiency thereof, the said Commissioners for General Purposes shall direct such assessment to be confirmed or altered according to such schedule, as the case may require; provided that in every case where they shall think proper that the said statement on which the additional Commissioners made their assessment, or the schedule delivered to the Commissioners for General Purposes, should be verified, they shall direct the assessor to give notice to the person to be charged with the said duties to appear before them to verify the said statement or schedule in the manner hereinafter mentioned; and every such person is hereby required to appear accordingly before the said Commissioners, and, on oath as aforesaid, to verify the contents of his statement or schedule, and to sign and subscribe the same with his proper name; and such oath shall be, that the contents of such statement or schedule are true to the best of his judgment or belief, and that the same contains the just balance of the profits and gains arising from the source or sources therein contained, after making such reductions as are therein stated, and that no deduction whatever than such as is therein stated, and to such amount only as is therein stated, hath been made from the profits or gains accounted for: Provided always, that such person shall be at liberty to amend his said statement or schedule before he shall be required to take such oath; and after such oath, and in every case where such statement or schedule shall not have been objected to as aforesaid, and the said Commissioners shall be satisfied therewith, they shall make an assessment according thereto, on the amount therein stated, at which the duty shall have been computed; and every such assess-

ment, made after verification of such statement or schedule, shall be final and conclusive as to the matters contained in such statement or schedule.

5 & 6 Vict. c. 35, s. 123. Commissioners may put questions in writing touching any assessment or schedules, and receive answers.

123. And be it enacted, that whenever the Commissioners for General Purposes shall be dissatisfied with any assessment returned by the additional Commissioners to them, or with any Schedule delivered to them, or shall require further information respecting the same, it shall be lawful for the said Commissioners for General Purposes to put any question in writing touching such assessment, or the contents of such schedule, or touching any of the matters which ought to be contained therein, or any sums which shall have been set against or deducted from the profits or gains to be estimated in such assessment or schedule, and the particulars thereof, and to demand an answer in writing accordingly from and signed by the person to be charged, and so from time to time whenever the said Commissioners shall think the same necessary, and the said Commissioners for General Purposes shall from time to time issue their precept, requiring true and particular answers to be given to such questions within seven days after the service of such precept; and every such person shall make true and particular answers, in writing, signed by him, to such questions, within the time limited by such precept, or shall within the like period tender himself before the said Commissioners for General Purposes to be examined by them *vivâ voce* to such matters; and every person required to make such answers, or appearing before the said Commissioners to be examined as a party, or as the clerk, agent, or servant of such party, as herein is mentioned, shall be permitted to give his answers, either in writing as aforesaid or *vivâ voce*, without having taken any oath, and shall be at liberty to object to any question, and peremptorily to refuse answering the same; and the substance of such answers as he shall give *vivâ voce* shall, in his presence, be reduced into writing and read to him, and he shall be at liberty to alter any part thereof, and also to alter or amend any particular contained in his answers in writing, or in any schedule or declaration, before he shall be called upon to verify the same in the manner herein directed; and every such schedule shall be altered or amended as shall seem requisite, after such inquiry or examination.

5 & 6 Vict. c. 35, s. 124. Commissioners for General Purposes may call upon the party to

124. And be it enacted, that it shall be lawful for the Commissioners for General Purposes, in every such case as aforesaid, whenever they shall think the same necessary, to require the person upon whom any assessment hath been made by the additional Commissioners, with which the said Commissioners for General

Purposes are dissatisfied, or from whom such schedule or answers in writing as aforesaid have been received, with which the said Commissioners are dissatisfied, to appear and verify the same, and, upon the appearance of such person, to permit him to alter or amend such schedule or answers, and thereupon to administer to such person the oath, hereinafter mentioned, and also to require any person who shall have been examined *viva voce* before them to verify his examination on oath, which any one of the said Commissioners is hereby empowered to administer, and such oath shall be, that the contents of the said statements or schedules are true to the best of his knowledge and belief and contain a full and true account of the balance of all the profits and gains of the deponent chargeable by this Act, to the best of his knowledge and belief, and a full and true account of every deduction made from his profits or gains in adjusting such balance, or that the contents of all such answers in writing as shall have been returned to the said Commissioners by him as the same are then stated or that the contents of his examination, as the same have been reduced into writing, are true; and every such oath shall be subscribed by the party taking the same.

verify his answers on examination upon oath;

125. And be it enacted, that it shall be lawful for the Commissioners for General Purposes to summon in like manner any person, whom they shall think able to give evidence or testimony respecting the assessment made or to be made on any other person, to appear before them to be examined, and to examine every such person, who shall so appear before them on oath (except the clerk, agent, or servant of the person to be charged, or other person confidentially intrusted or employed in the affairs of such party to be charged, and who shall respectively be examined in the same manner and subject to the same restrictions as are hereinbefore provided for the *viva voce* examination of any party touching the assessments to be charged on him), which oath any one of the said Commissioners is hereby empowered to administer; and such oath shall be, that the testimony or evidence to be given by such person shall contain the whole truth, and nothing but the truth, in respect of the matter in question concerning which such evidence or testimony is to be given, and every such oath shall be subscribed by the person taking the same; and if any person, being duly summoned as aforesaid, shall refuse or neglect to appear before the said Commissioners at the time and place to be appointed for that purpose, or if any person, other than such clerk, agent, servant, or person confidentially intrusted or employed as aforesaid, being summoned, shall appear before the said Commissioners, but shall refuse to be

5 & 6 Vict. c. 35, s. 125. may summon witnesses, and examine them upon oath.

Penalty for refusing to attend or to be examined.

sworn, or to subscribe such oath as aforesaid, or having taken and subscribed such oath, shall refuse to answer any lawful question touching the matter depending before the said Commissioners, every person so offending shall forfeit any sum not exceeding twenty pounds.

5 & 6 Vict. c. 35, s. 126. Commissioners agreeing to make an assessment on the schedule may do so; but in certain cases Commissioners may make an assessment according to their judgment, which shall be final.

126. And be it enacted, that if the Commissioners for General Purposes, or the major part of them present, after hearing all such appeals as shall be depending before them, or upon any objection made by the inspector or surveyor to any such assessment or schedule, whether such inquiry or examination as aforesaid shall have taken place or not, shall agree to make an assessment according to the statement contained in the said schedule, as the same shall have been returned, or altered or amended upon appeal as aforesaid, they shall direct an assessment to be made of the duties chargeable on the statement contained in the said schedule at the rate contained in this Act; and if the said Commissioners shall think proper to require a verification of the said schedule, they shall give notice in manner aforesaid to the party to appear before them to verify the same, and such verification shall be made by the party in such manner, and such assessment thereupon shall be made, as hereinbefore directed, which assessment shall be final and conclusive; but nevertheless, in every instance where any person shall have neglected or refused to return such schedule according to the exigency of the precept of the said Commissioners, or if any clerk, agent, or servant of such party as aforesaid, being summoned, shall have neglected or refused to appear before the Commissioners to be examined, or if such party, or his clerk, agent, or servant, as aforesaid shall have declined to answer any question put to him by the said Commissioners in writing or *vivâ voce*, or where the schedule delivered shall have been objected to as aforesaid, and such objection shall not have been appealed against within such reasonable time as is directed by this Act, or where any person, being required so to do, shall have neglected or refused to verify his statement or schedule, or his answers or examination in writing, or where the Commissioners shall agree as aforesaid to allow the objections, or any of them, made by such inspector or surveyor, it shall be lawful for the said Commissioners, and they are hereby required in every such case, according to the best of their judgment, to settle and ascertain in what sums such person ought to be charged, and to make an assessment accordingly, which assessment shall be final and conclusive.

1894, *R.* v. *Chew*, 11 T. The Commissioners are not bound by the schedule, though the party offers to verify it on oath; and if they are not satisfied with the way the schedule

has been prepared, and the party declines to produce his books, &c., they may confirm the assessment and decline to take the oath of the party; *R.* v. *Chew and others, Ex parte Fletcher.* L. R. 1; 14 R. 74; 71 L. T. 541; 59 J. P. 356.

"He was not called upon to answer any of these questions in any other way than that in which he chose to. He was entitled to refuse to allow any inquisition into his books, and he was entitled to refuse to allow the Commissioners any opportunity of verifying his figures, but if he did that, they were not bound by his affidavit, and they were entitled as reasonable men to come to the conclusion that the figures could not be relied on." Mathew, J., in *R.* v. *Chew.*

"There is no ground for supposing that the judgment of this Court gives any sanction to the idea that the Commissioners are entitled, *brevi manu*, when they find that the books are not produced, to rely upon that circumstance as deciding against the appellant." Rigby, L.J., in *R.* v. *Chew.*

Production of Books.

There is no provision which enables the Revenue authorities to compel the production of books, but an appellant before the Commissioners may find himself compelled either to produce his books or to see his appeal dismissed. The case of *R.* v. *Chew* has been used by the Revenue authorities as a lever for this purpose.

5 & 6 Vict. c. 35, s. 127. Where an assessment shall be increased, the Commissioners may charge the party with the penalty, not exceeding treble the amount of duty.

127. And be it enacted, that in every case where the Commissioners for General Purposes shall have made any increased assessment upon the amount contained in the statement or schedule of the party to be charged, or shall at any time during the continuance of this Act discover that any increase ought to be made, whether upon the surcharge of the inspector or surveyor, or from his information, or otherwise, it shall be lawful for them to charge such person in a sum not exceeding treble the amount by which the duties shall have been increased: (that is to say,) where the party shall have refused or neglected to deliver any statement or schedule, then in a sum not exceeding treble the amount of the sum which, according to the rate prescribed in Schedule (D.), such person, in the judgment of the said Commissioners, ought to be charged at, to be added to the assessment, and applied as directed by this Act in other cases of increased assessments, and in case a statement or schedule shall have been so delivered, then in a sum not exceeding treble the amount beyond the amount contained in such statement or schedule, unless such person shall in every such case make it appear to the satisfaction of the said Commissioners that the omission complained of did not proceed from any fraud, covin, art, or contrivance, or any gross or wilful neglect.

5 & 6 Vict. c. 35, s. 128. Penalty on persons neglecting to deliver schedules, or attend summons of Commissioners.

128. And be it enacted, that if any person required by the Commissioners for General Purposes to make out and deliver any schedule to the person to whom the same ought to be delivered in pursuance of this Act shall refuse or neglect so to do, or shall refuse or neglect to appear before the said Commissioners, or to verify upon oath before them any statement or schedule by him delivered, within the time limited by such Commissioners, in pursuance of

this Act, every such person so offending shall forfeit any sum not exceeding twenty pounds, and treble the duty at which he ought to be assessed.

5 & 6 Vict. c. 35, s. 129. Schedules may be amended.

129. Provided always, and be it enacted, that if any person who shall have delivered a statement or schedule shall discover any omission or wrong statement therein, it shall be lawful for him to deliver an additional statement or schedule rectifying such omission or wrong statement, and such person shall not afterwards be subject to any proceeding by reason of such omission or wrong statement; and if any person shall not have delivered a statement or schedule within the time limited by the Commissioners for that purpose, it shall be lawful for him to deliver a statement or schedule, in manner herein directed, at any time before a proceeding shall be had to recover the penalty herein mentioned, and no proceeding shall be afterwards had for recovering such penalty; and if any proceeding shall have been actually had before the Commissioners for recovering such penalty, it shall be lawful for the same Commissioners, on due proof to their satisfaction that no fraud or evasion whatever was intended, to stay such proceedings, either on the terms of paying or without paying the costs then incurred, as the Commissioners shall think fit; and if any proceeding shall have been commenced in any Court, it shall be lawful for the Commissioners to certify, that in their judgment, no fraud or evasion was intended by the party making such omission, and it shall be lawful for any judge of such Court, on a summary application, to stay such proceedings on such terms as he shall think fit; or if such person shall have delivered an imperfect statement or schedule, and shall give to the Commissioners a sufficient reason why a perfect statement or schedule cannot be delivered, the said Commissioners, being satisfied therewith, shall give further time, and so from time to time, for the delivery of such statement or schedule; and such person shall not be liable to any penalty for not having delivered such statement or schedule within the time before limited, in case such person shall have delivered as perfect a statement or schedule as from the nature of the case he was enabled to give, and so from time to time as long as the Commissioners shall grant further time as aforesaid.

5 & 6 Vict. c. 35, s. 130. Parties assessed or surcharged to the duties in Schedule (D.) may appeal to

130. Provided always, and be it enacted, that in any case in which an appeal is allowed to be made to the Commissioners for General Purposes against any assessment of the duties contained in Schedule (D.) of this Act, or against any objection of the inspector or surveyor to such assessment, or against any surcharge of the said duties, it shall be lawful for the person assessed or charged, if

he shall think fit, instead of appealing to the said Commissioners for General Purposes, to appeal to the Commissioners for Special Purposes, upon giving notice thereof in writing to the inspector or surveyor within the time limited for notices of appeal to the Commissioners for General Purposes in similar cases, and thereupon every such appeal shall be heard and determined by two or more of the Commissioners for Special Purposes who shall be directed by the Commissioners of Inland Revenue to hear appeals in the district in which such appellant shall be chargeable, and the determination of the said Commissioners for Special Purposes shall be final and conclusive in the matter: Provided always, that no person who shall claim the exemption hereinafter granted to persons whose annual income is less than one hundred and fifty pounds (*a*) shall be allowed to appeal to the said Commissioners for Special Purposes, but that every such claim shall be determined by the Commissioners for General Purposes as hereinafter directed.

Special Commissioners.

Claims of exemption for income being less than 150*l.* to be determined by General Commissioners.

(*a*) Now 160*l.* The Finance Act, 1894, s. 34. See p. 330.

131. Provided also, and be it enacted, that it shall be lawful for any person chargeable to the duties contained in the said Schedule (D.), and who shall not claim the said exemption hereinafter granted, to require, if he shall think fit, that all proceedings in order to an assessment upon him, in respect of profits and gains chargeable under the said schedule, shall be had and taken before the Commissioners for Special Purposes in the manner hereinafter directed, instead of the additional Commissioners or the Commissioners for General Purposes, provided he shall deliver a notice of such request, together with the list, declaration, and statement of such profits and gains, to the assessor of the parish or place, to be by him transmitted to the inspector or surveyor of the district in which the same shall be chargeable, within the time to be limited by the general notice hereinbefore directed to be given for delivery of all such lists and statements as aforesaid; and thereupon the said inspector or surveyor shall examine the said list and statement, and shall compute and assess the duties which, according to his judgment, shall be chargeable upon the party under the said Schedule (D.), and shall make a certificate of such assessment, and deliver the same, together with the said list, declaration, and statement, to the Commissioners for Special Purposes, who shall examine the same, and make or sign and allow such an assessment of the said duties as shall appear to them to be just and proper, subject to an appeal by the party to be charged, or by the inspector or surveyor objecting to such assessment, in like manner and under the like rules and regulations as in cases of appeal against assess-

5 & 6 Vict. c. 35, s. 131.

Persons chargeable under Schedule (D.) may require the proceedings in order to an assessment to be had before Special Commissioners.

ments made by the said additional Commissioners; and every such appeal shall be heard and determined by the Commissioners for Special Purposes directed by the Commissioners of Inland Revenue to hear appeals in such districts; provided that if either the party to be charged, or the inspector or surveyor, shall apprehend the determination of the said Commissioners for Special Purposes on such appeal to be erroneous in any particular, and shall then express himself dissatisfied therewith, the said Commissioners, if required by him, shall state specially and sign the case on which the question arose, together with their determination thereon, and transmit the same to the Commissioners of Inland Revenue for their opinion; and the said last-mentioned Commissioners shall, with all convenient speed, state and subscribe their opinion on the case so transmitted, and according to such opinion the assessment which shall have been the subject of appeal shall be altered or confirmed, and the decision of the Commissioners of Inland Revenue shall be final and conclusive in the matter; and in every case in which an assessment shall be made by the said Commissioners for Special Purposes they shall notify the amount thereof to the party assessed, who shall cause the same to be paid to the Receiver-General of Inland Revenue, or the proper officer for receipt in England, Scotland, or Ireland at such time or times and in such manner as the said Commissioners shall direct; and in default of such payment the said Commissioners shall make a duplicate of such assessment, and deliver the same, together with their warrant for levying the amount thereof, to the collector of the duties appointed by the Commissioners for General Purposes for the parish or place in which the party assessed shall reside, and such collector is hereby authorized and required to levy and raise the duties so assessed according to the exigency of such warrant.

5 & 6 Vict. c. 35, s. 132. Powers and authorities of General Commissioners may be exercised by Special Commissioners in certain cases.

132. And be it enacted, that whenever by this Act authority is given to the Commissioners for Special Purposes to make, sign, or allow any assessment, or to hear any appeal, then and in every such case all the powers and authorities, rules and regulations, which under or by virtue of this or any other Act may be exercised or put in force by the said additional Commissioners or the said Commissioners for General Purposes, or by or under their warrant, order, or direction respectively, with relation to the making, signing, or allowing of any assessment, or to the proceedings on any appeal before them, or to the collecting, levying, and receiving of any of the duties hereby granted, shall and may lawfully be exercised and put in force by the said Commissioners for Special Purposes, or by or under their warrant, order, or direction, with

reference to any assessment to be made, signed, or allowed by such last-mentioned Commissioners, or any appeal to be heard or determined by them.

By the Customs and Inland Revenue Act, 1890—

53 & 54 Vict. c. 8, s. 23. Relief to trading or professional persons and farmers in case of losses.

23.—(1.) Where any person shall sustain a loss in any trade, manufacture, adventure, or concern, or profession, employment, or vocation carried on by him either solely or in partnership, or in the occupation of lands for the purpose of husbandry only, it shall be lawful for him, upon giving notice in writing to the surveyor of taxes for the district within six months after the year of assessment, to apply to the Commissioners for the General Purposes of the Acts relating to income tax for an adjustment of his liability by reference to the loss and to the aggregate amount of his income for that year estimated according to the several rules and directions of the said Acts.

(2.) The said Commissioners shall, on proof to their satisfaction of the amount of the loss, and of the payment of income tax upon the aggregate amount of income, give a certificate authorizing repayment of so much of the sum paid for income tax as would represent the tax upon income equal to the amount of loss, and such certificate may extend to give exemption or relief by way of abatement in accordance with the provisions of the said Acts. Upon the receipt of the certificate the Commissioners of Inland Revenue shall cause repayment to be made in conformity therewith.

(3.) If any person shall be guilty of any fraud or contrivance in making any application under this section, or in obtaining any such adjustment or certificate as aforesaid, he shall forfeit the sum of fifty pounds, to be recoverable as a penalty imposed by virtue of the Taxes Management Act, 1880.

(4.) Where repayment has been made to a person in any year under the provisions of this section, he shall not be entitled to claim, or be allowed, a deduction on the assessment for a subsequent year by reference to the amount of loss in respect whereof such repayment has been obtained.

The Finance Act, 1907—

7 Edw. 7, c. 13, s. 27. Power of Commissioners for Special Purposes to

27. Any application for relief under sect. 23 of the Customs and Inland Revenue Act, 1890, may be made either to the Commissioners for the General Purposes of the Acts relating to income tax as provided in that section or to the Commissioners for the Special Purposes of these Acts, and the last-named Commissioners

allow relief under s. 23 of 53 & 54 Vict. c. 8.

shall have the same power under that section as the first-named Commissioners have.

1901. *Bruce* v. *Burton*, 4 Tax Cas. 399; *Grimes* v. *Lethem*, 3 Tax Cas. 622.

Applications for relief under the Finance Act, 1896 (59 & 60 Vict. c. 28), s. 27, and the Customs and Inland Revenue Act, 1890 (53 & 54 Vict. c. 8), s. 23, are not appeals, and the Commissioners have no power to state a case under sect. 59 of the Taxes Management Act, 1880 (43 & 44 Vict. c. 19).

1904. *R.* v. *Commissioners of Income Tax for the City of London; Ex parte Commissioners of Inland Revenue*, 91 L. T. 94.

In order to obtain relief under sect. 23 the business must have resulted in a loss for the year in question.

Where the Commissioners are acting within their jurisdiction on a matter properly before them the Court will not interfere by certiorari, even if they have gone wrong in law in the way they have applied the rules of law to their judgment or have gone wrong in fact.

5 & 6 Vict. c. 35, s. 134. Abatement to be allowed when persons shall cease to exercise any trade or shall die before the end of the year.

The Income Tax Act, 1842—

134. And be it enacted, that in case any person charged to the said duties under Schedule (D.), whether the computation thereon shall have been made on the profits of one year or on an average, as herein allowed, shall cease to exercise the profession, or to carry on the trade, employment, or vocation, in respect whereof such assessment was made, or shall die, or become bankrupt or insolvent, before the end of the year for making such assessment, or shall from any other specific cause be deprived of or lose the profits or gains on which the computation of duty charged in such assessment was made, it shall be lawful for such person, or his executors or administrators, to make application to the Commissioners for General Purposes of the district, within three calendar months after the end of such year, and on due proof thereof to their satisfaction the said Commissioners shall cause the assessment to be amended, as the case may require, and give such relief to the party charged, or his executors or administrators, as shall be just, and in cases requiring the same the said Commissioners shall direct, in manner before mentioned, repayment to be made of such sum as shall have been overpaid on the assessment amended or vacated: Provided always, that where any person shall have succeeded to the trade or business of the party charged, no such abatement shall be made, unless it shall be proved to the satisfaction of the said Commissioners that the profits and gains of such trade or business have fallen short from some specific cause (*a*), to be alleged to them and proved, since such change or succession took place, or by reason thereof, but such person so succeeding to the same shall be liable to the payment of the full duties thereon without any new assessment.

(*a*) As to what is a "specific cause" see p. 243. An abatement is also

allowed to clergymen for expenses incurred in performance of their duties. See p. 313.

1898. *Re Roberts*, 41*st Report of the Commissioners of Inland Revenue*, 132.

A person was adjudicated a bankrupt in Ireland on the 5th March, 1897, while indebted to the Crown in a sum of 7*l.* 4*s.* 11*d.* for income tax assessed upon him under Schedule (E.) for the years ended 5th April, 1894, and 5th April, 1895, respectively. Order made for payment of these arrears in full, in priority to the claims of the bankrupt's general creditors, on the authority of *Re Galvin* (1897), 1 I. R. 520.

1899. *Calvert* v. *Walker*, 4 Tax Cas. 79.

A proof made in bankruptcy by a collector of taxes in respect of an arrear due under an assessment to income tax cannot be expunged on the ground that the debtor had not made the profit assessed.

The Finance Act, 1907— 7 Edw. 7, c. 13, s. 24.

24.—(3.) Where a profession, trade, or vocation is discontinued in any year, any person charged or chargeable with income tax in respect of that profession, trade, or vocation shall be entitled to be charged on the actual amount of the profits or gains arising from the profession, trade, or vocation in that year, and shall also, if he proves to the satisfaction of the Commissioners, by whom the assessment has been or could have been made, that the total amount of the income tax paid during the three previous years in respect of that profession, trade, or vocation exceeds the total amount which would have been paid if he had been assessed in each of those years on the actual amount of the profits or gains arising in respect of the profession, trade, or vocation, be entitled to repayment of the excess.

The Income Tax Act, 1853— 16 & 17 Vict. c. 36, s. 30.

30. Where, on any application for relief, or abatement of assessment in pursuance of the provisions contained respectively in section one hundred and thirty-three and section one hundred and thirty-four of the said Act of the fifth and sixth years of her Majesty, chapter thirty-five, and in the third section of an Act of the fourteenth year of her Majesty's reign, chapter twelve, it shall be proved to the satisfaction of the Commissioners to whom such application shall be made that the total amount of the income from every source of the person claiming such relief or abatement for the year for which such assessment was made was under one hundred pounds (*a*), such person shall be entitled to the same relief and repayment respectively as by this Act and the said first-mentioned Act is provided in the case of persons claiming relief on the ground of their respective annual incomes being less than one hundred pounds (*a*) a year.

Persons claiming abatement of assessment, and proving their incomes to be under 100*l.* a year, to be entitled to the same relief as if they had claimed exemption on the ground of their incomes being under that amount.

(*a*) Now 160*l.* The Finance Act, 1894, s. 34, p. 330. 57 & 58 Vict. c. 30, s. 34.

Procedure.

5 & 6 Vict. c. 35, s. 135. Commissioners to be assessed to duties under Schedule (D.) as other persons.

The Income Tax Act, 1842—

135. And be it enacted, that the persons acting as Commissioners in the execution of this Act shall be charged and assessed to the duties contained in Schedule (D.), if liable thereto, in like manner as any other person may be charged and assessed to the said duties: Provided always, that any Commissioners whose statement or schedule shall be under consideration, or shall be concerned or interested therein, either for himself or for any other person, in any character before described, shall have no voice, and shall not be present, except upon an appeal, for the purpose of being examined *vivâ voce* by the Commissioners then having his assessment or schedule under consideration, but shall withdraw during the consideration and determination thereof.

Not to be present during the consideration of their statements.

5 & 6 Vict. c. 35, s. 136. Commissioners to enter their assessments in books, and send accounts to the Office of Inland Revenue.

136. And be it enacted, that the Commissioners for General Purposes acting in relation to the duties contained in Schedule (D.) shall, in their respective books of assessment, enter and cause to be entered the several amounts of the sums assessed by them; and they shall from time to time make out, and transmit to the Commissioners of Inland Revenue, accounts of the amount of duty assessed by them, distinguishing the amount charged on each person, which accounts shall severally be made out, with the particulars required by this Act; and they shall also from time to time make out, and transmit to the said Commissioners of Inland Revenue, lists containing the name, description, and place of residence of every person assessed by them respectively, as soon as the same conveniently can be done, which lists shall be made out according to an alphabetical arrangement of the respective parishes or places of residence in their respective districts.

5 & 6 Vict. c. 35, s. 137. Assessments under Schedule (D.) to be entered, and certificates of the amount to be delivered by a number or letter, without the name of the parties, where they intend payment to the officer for receipt.

137. And be it enacted, that all assessments from profits or gains under Schedule (D.) made by the Commissioners for General Purposes shall be entered in books, with the names and descriptions of the persons, corporations, companies, or societies to be charged therewith, and their respective places of abode set opposite thereto, and which entries shall respectively be numbered progressively, or lettered, or distinguished by numbers or letters, as the said Commissioners shall think proper; and that when and as soon as the said Commissioners shall have caused to be made any such entry in such book, in case the person charged by such assessment shall have declared his intention to pay the duty to the proper officer for receipt within the time limited by this Act for payment thereof, and in case the said Commissioners shall be satisfied with such

declaration, they shall deliver to such person, or to such other person as shall be there attending on his behalf, a certificate under the hands of two or more of such Commissioners, specifying the amount of the sums to be paid within one year upon such assessment; and every such certificate shall be numbered or lettered with the same number or letter as the entry in the book of the said Commissioners to which such certificate shall relate shall be marked and numbered or lettered, without naming or otherwise describing the person charged thereby; which certificate shall, on production thereof, be a sufficient authority to the said officer for receipt from time to time to receive from any person bearing and producing such certificate the amount of the sums therein contained, in such proportions thereof as by this Act are made payable by instalment, and at the times by this Act appointed for payment thereof, or in advance; and on the payment of the sums contained in any such certificate, or any proportion thereof, the said officer for receipt shall give certificates for the same acknowledging the receipt of the sum paid on account of the certificate of the said respective Commissioners by the number or letter marked thereon as before directed.

5 & 6 Vict. c. 35, s. 138. Commissioners to deliver warrants to collectors, except where parties are assessed by a number or letter.

138. And be it enacted, that in all cases where the Commissioners shall not have received a declaration of the intended payment to the officer for receipt as aforesaid of the duty to be charged under Schedule (D.), or shall not be satisfied with such declaration, they shall deliver a duplicate of the assessments to the collector, with the names and descriptions of the parties charged therewith, together with their warrants for collecting the same, in such form and under the like powers as they are authorized to collect the duty under any of the other Schedules contained in this Act; and if after the receipt of any such declaration the duties shall not be duly satisfied and paid accordingly, the said Commissioners shall cause the names of the defaulters, and the amount of duty assessed on each, to be inserted from time to time in the duplicate of such collector; and the warrant for collecting the same shall be of the like force and effect as if such names and sums had been inserted therein at the time of issuing such warrant.

5 & 6 Vict. c. 35, s. 139. Duplicates to be delivered to officers for receipt, and where assessments are made under a number or

139. And be it enacted, that it shall be lawful for the respective Commissioners for General Purposes to issue out and deliver to the respective officers for receipt duplicates of the assessments made by them, containing the sums assessed on every person to whom a certificate hath been delivered by letter or number, together with the number or letter set opposite thereto in their respective books before mentioned, without naming such persons, with their warrants

letter, with warrants for receiving the duties.

for receiving the duties charged by such Commissioners respectively when the same shall become payable as aforesaid; and all such sums shall be paid to the respective officers for receipt, and such part thereof as shall not be so paid to them may be levied and collected as herein is mentioned; and if not so paid, levied, or collected, the same shall be recoverable as a debt to the Queen's Majesty, with full costs of suit, and all charges and expenses attending the same.

5 & 6 Vict. c. 35, s. 140. Persons charged to pay the duties to the proper officer for receipt before the days appointed by the Act; and in default the duties may be levied.

140. And be it enacted, that the duties payable on such last-mentioned assessments shall be paid to the proper officer for receipt, by such instalments (*a*) as by this Act is directed, before the respective days appointed for such payments, according to the regulations of this Act, or by three or two instalments, or in one sum in full, as the parties shall choose; and the certificates hereby required to be given on such payments shall be delivered to the respective Commissioners, or to one or more of them, or to their clerk, at their office, before the times when the same are hereby made payable, taking his or their receipt for the same, which receipt shall be a sufficient discharge for the money so paid in satisfaction of so much of the assessment as shall be mentioned in such certificate to be so paid; and if any person shall neglect to pay such duties at the time and in the manner hereby directed for payment thereof, or having paid the same, shall neglect to deliver the certificate required to be given on such payment as hereinbefore directed, it shall be lawful for the Commissioners for General Purposes, and they are hereby required, to deliver a duplicate of all sums assessed on any person who shall have made default in paying or accounting for the payment of the same, together with their warrant, to such collector as they shall appoint to levy the sum in arrear and unpaid, and such duplicate shall be made out, and such sums shall be levied, according to the regulations of the Taxes Management Act, 1880.

(*a*) Payments by instalments is now abolished: see p. 187.

5 & 6 Vict. c. 35, s. 141. Duties may be paid in advance, subject to discount.

141. And be it enacted, that it shall be lawful for any person to pay in advance to the Receiver General of Inland Revenue, or to the proper officer for receipt, any sum of money charged as aforesaid, and to require a certificate acknowledging such payment; and it shall be lawful for the said Receiver General or officer for receipt, on production of the notice or certificate of such assessment at the time of payment of the said duty in advance (the sum so paid not in any case to be less than the sum which appears by such certificate to be payable by two instalments), to make an allowance, at

the rate of four pounds *per centum per annum*, out of the sum so paid in advance, calculated upon such sum for the period by which the same shall be paid sooner than the period prescribed by this Act for the payment thereof; and in every such case the said Receiver General or officer for receipt shall give the person paying the same a certificate of such payment, specifying therein the number of instalments thereby discharged, and the amount of the allowance for such prompt payment, and referring thereby to the notice or certificate of assessment then produced, and the name, number, or letter therein mentioned; and all such allowances shall be made at the time of paying the said duties; and such certificates as aforesaid, being delivered at the respective offices of the Commissioners for executing this Act, shall be received by them as cash in discharge of the assessments, and shall be allowed to them in their accounts.

By the Revenue Act, 1889—

52 & 53 Vict. c. 42, s. 10.

10. The allowance to be made under sect. 141 of 5 & 6 Vict. c. 35 shall be at the rate of two pounds ten shillings per centum per annum in lieu of the rate of four pounds per centum per annum.

The Income Tax Act, 1842—

5 & 6 Vict. c. 35, s. 142. One certificate or separate certificates shall be given as required for the duties so paid.

142. And be it enacted, that upon the payment of any such sum of money as aforesaid the said Receiver General or officer for receipt shall give such certificate as aforesaid for the whole of the sum so paid, or separate certificates in like form for such portions thereof as shall be required, which certificates shall severally be cut off indentwise from the counter-cheques thereof, which counter-cheques are to remain with the said Receiver General or officer for receipt; and every such certificate shall be denominated in the body thereof to be on account of payments made in discharge of the duties assessed by virtue of this Act; and upon the delivery of any such certificate as last aforesaid to the said Commissioners for General Purposes, or at their office, in discharge of the whole or any part of the said duties assessed or charged upon the person delivering such certificate, the said Commissioners or their clerk shall, if required, indorse in writing on the back of the certificate to be given by them or him in such case the amount of the number of instalments of the said duties to be discharged by such payments, which receipts of the said Commissioners or their clerks as aforesaid shall be received, without further proof, as evidence of such payments, in all Courts and places and before all persons whatever.

On delivery of certificates to the Commissioners, the clerk to give a receipt, which shall be a discharge for the duties.

5 & 6 Vict. c. 35, s. 146. Duties in Schedule (E.), and Rules, part of this Act.

146. And be it enacted, that the duties hereby granted contained in the Schedule marked (E.) shall be assessed and charged under the following Rules, which Rules shall be deemed and construed a part of this Act, and to refer to the said last-mentioned duties, as if the same had been inserted under a special enactment.

Schedule (E.)

16 & 17 Vict. c. 34, s. 2.

The Income Tax Act, 1853—

For and in respect of every public office or employment of profit, and upon every annuity, pension, or stipend payable by her Majesty or out of the public revenue of the United Kingdom, except annuities charged to the duties under the said Schedule (C.), and to be charged for every twenty shillings of the annual amount thereof.

5 & 6 Vict. c. 35, s. 146.

The Income Tax Act, 1842—

Rules for charging the said Duties.

Duties to be charged for all salaries, fees, or profits;

First.—The said duties shall be annually charged on the persons respectively having, using, or exercising the offices, or employments of profit mentioned in the said Schedule (E.), or to whom the annuities, pensions, or stipends mentioned in the same Schedule shall be payable, for all salaries, fees, wages, perquisites, or profits whatsoever accruing by reason of such offices, employments, or pensions, after deducting the amount of duties or other sums payable or chargeable on the same by virtue of any Act of Parliament, where the same have been really and *bonâ fide* paid and borne by the party to be charged; and each assessment in respect of such offices or employments shall be in force for one whole year, and shall be levied for such year without any new assessment, notwithstanding a change may have taken place in any such office or employment, on the person for the time having or exercising the same; provided that the person quitting such office or employment, or dying within the year, or his executors or administrators, shall be liable for the arrears due before or at the time of his so quitting such office or employment, or dying, and for such further portion of time as shall then have elapsed, to be settled by the respective Commissioners, and his successor shall be repaid such sums as he shall have paid on account of such portion of the year, as aforesaid; and each assessment in respect of such annuity, pension, or stipend shall be in force for one whole year, unless the same shall cease or expire

after deducting duties chargeable on the same by Act of Parliament.

Provision respecting arrears on quitting office or dying.

within the year, by lapse, death, or otherwise, from which period the assessment thereon shall be discharged:

'Perquisites or Profits accruing."

"It is clear that the benefit, if any, which a bank agent may derive from his residence in the business premises of the bank is neither salary, fee, nor wages. Is it, then, a perquisite or a profit of his office? I do not think it comes within the category of profits, because that word, in its ordinary acceptation, appears to me to denote something acquired which the acquirer becomes possessed of and can dispose of to his advantage—in other words, money—or that which can be turned to pecuniary account. If the context had permitted, it might have been possible to argue that a benefit of that kind was a perquisite. But the fourth rule of Schedule (E.) defines perquisites, for all purposes of the Act, to be 'such profits of offices and employments as arise from fees and other emoluments, *and payable either by the Crown or by the subject* in the course of executing such offices or employments'": Lord Watson in *Tennant* v. *Smith*. *Tennant* v. *Smith*, [1892] A. C. 159.

A bank agent who is bound to occupy the bank-house and occupies it rent free, but cannot sub-let it, and is under obligation to quit the premises on ceasing to hold his office, cannot be assessed on the yearly value of the privilege of free residence: *S. C.*

"I think that a profit accrues by reason of an office when it comes to the holder of an office as such—in that capacity—and without the fulfilment of any further or other condition on his part; and what we have to determine is whether the sum in question does so come to the holder of this office": Stirling, L. J., in *Herbert* v. *McQuade*. *Herbert* v. *McQuade*, [1902] 2 K. B. 631.

1894. *McDougal* (*Surveyor of Taxes*) v. *Sutherland*, 21 R. 753; 31 S. L. R. 630; 3 Tax Cas. 261.

The annual value of a manse occupied rent free by the minister of a congregation of the Free Church of Scotland, the feudal title to which is in trustees for behoof of the congregation, is not assessable.

Duties or other Sums payable or chargeable on the same by virtue of any Act of Parliament.

Beaumont v. *Bowers*, [1900] 2 Q. B. 204.

The appellant contributed annually, under sect. 12 of the Poor Law Officers' Superannuation Act, 1896, for the purposes of that Act, a sum of 15*l.* 10*s.*, which was deducted from his salary under that section. He claimed to deduct this sum from his salary under the above rule as a duty or other sum payable or chargeable on the same by virtue of an Act of Parliament.

Held, that he was entitled to do so.

But this case has been practically overruled by

Hudson v. *Gribble*, [1903] 1 K. B. 517 (C. A.); *Bell* v. *Gribble*.

By sect. 5 of the Manchester Corporation Act, 1891 (54 & 55 Vict. c. ccvii.), the mayor, aldermen and citizens of the city of Manchester were empowered to establish a fund for the encouragement of thrift amongst the officers and servants of the corporation, and with a view of providing a sum of money which, in the event of the retirement or death of any person in the service of the corporation who had contributed to the fund, should be available for himself or his representatives, such fund to be called "the thrift fund."

The scheme approved and adopted by the corporation for the establishment of the thrift fund applied to two classes of persons:—

1. Those who entered the service of the corporation after the Act came into force were compelled to contribute.
2. Those already in the service had the option of doing so.

In the first case, the option had been exercised by a servant of the corporation, and by the provisions of the scheme he could not cease to contribute

while in the service of the corporation. In the second case, the servant had entered the service of the corporation after the Act came into force.

Held, that neither servant was entitled to deduct from his salary the sum contributed as a duty or other sum chargeable on the same by virtue of an Act of Parliament.

Beaumont v. *Bowers*, [1900] 2 Q. B. 204, not followed.

"I am disposed to agree with the argument on behalf of the Crown to the effect that the words 'duties or other sums payable or chargeable on the same by virtue of any Act of Parliament' contemplate matters in the nature of taxes, such as were imposed by the Acts (*a*) to which we have been referred, and that the meaning is limited to such matters": Vaughan Williams, L. J.

"Before leaving this part of the case, I should wish to say generally that in my view the object of this part of the rule was to prevent double taxation": Vaughan Williams, L. J.

(*a*) 49 Geo. 3, c. 32; 6 Geo. 4, c. 9; and 6 & 7 Will. 4, c. 97.

These statutes imposed duties on salaries. The duties were repealed by 39 & 40 Vict. c. 16, s. 12, but to some extent restored by 40 & 41 Vict. c. 10, s. 1.

No such duties are in force at the present day.

The Court was much impressed by the argument that if the sums could be deducted it would appear that part of sect. 54, *i.e.*, the words "or (E.)," are superfluous.

16 & 17 Vict. c. 34, s. 53. Public officers becoming entitled to increased salaries, &c. to be charged for the same by supplemental assessment.

The Income Tax Act, 1853—

53. Where any person who shall hold or exercise any public office or employment of profit shall at any time or times during or for or in respect of any year of assessment become entitled to any additional salary, fees, or emoluments beyond the amount for which any assessment may have been made upon him, or beyond the amount for which at the commencement of such year he may have been liable to be assessed, an additional or supplemental assessment shall from time to time, as often as the case shall require, be made upon such person for such additional salary, fees, or emoluments, so that he shall be assessed and charged for the full amount of the whole of the salary, fees, and emoluments which he shall receive or become entitled to at any time, and from time to time during or for or in respect of the said year of assessment.

5 & 6 Vict. c. 35, s. 146. Duties to be assessed for all offices in the place where the Commissioners execute their offices.

The Income Tax Act, 1842—

Second.—The said duties to be assessed by the respective Commissioners for all the offices in each department in the place where the said Commissioners shall execute their offices, although certain of the offices in the same department may be executed elsewhere, and shall be due and payable from the respective officers, and their respective successors, for the time being:

Description of offices to be charged.

Third.—The said duties shall be paid on all public offices and employments of profit of the description hereinafter mentioned within the United Kingdom; (*videlicet*,) any office

belonging to either House of Parliament, or to any Court of justice, whether of law or equity, in England, Ireland, or Scotland, Wales, the Duchy of Lancaster, the Duchy of Cornwall, or any criminal or justiciary or ecclesiastical Court, or Court of Admiralty, or Commissary Court, or court martial any public office held under the civil government of her Majesty, or in any county palatine, or the Duchy of Cornwall; any commissioned officer serving on the staff, or belonging to her Majesty's army, in any regiment of artillery, cavalry, infantry, royal marines, royal garrison battalions, or corps of engineers or royal artificers; any officer in the navy, or in the militia or volunteers; any office or employment of profit held under any ecclesiastical body, whether aggregate or sole, or under any public corporation, or under any company or society, whether corporate or not corporate; any office or employment of profit under any public institution, or on any public foundation, of whatever nature or for whatever purpose the same may be established; any office or employment of profit in any county, riding, or division, shire, or stewartry, or in any city, borough, town corporate, or place, or under any trusts or guardians of any fund, tolls, or duties to be exercised in such county, riding, division, shire, or stewartry, city, borough, town corporate, or place; and every other public office or employment of profit of a public nature:

"Schedule (E.) extends only to offices or employments under corporations which are of a public nature, and not to workmen or artizans like engine-drivers, porters, and labourers": Pollock, C. B., Martin, Channell and Pigott, BB., in *Att.-Gen.* v. *Lancashire and Yorkshire Railway Co.* 1864, *A.-G.* v. *L. & Y. Rail. Co.*, 2 H. & C. 811; 33 L. J. Ex. 163; 10 L. T. 95; 13 W. R. 8; 10 Jur (N. S.) 705.

Income arising from employment as a bank agent is assessable under Schedule (E.) and not under Schedule (D.): see Lord Halsbury, L. C., and Lord Watson in *Tennant* v. *Smith*. *Tennant* v. *Smith*, [1892] A. C. 150.

Schedules (D.) and (E.) are in terms exclusive of each other: Lord Halsbury, L. C., *S. C.*

The office of national schoolmaster is a public office within the meaning of Schedule (E.): *Bowers* (*Surveyor of Taxes*) v. *Harding*. *Bowers* (*Surveyor of Taxes*) v. *Harding*, L. R. (1891) 1 Q. B. 560.

Limited Liability Companies and Private Firms.

The servants of a company are assessed under Schedule (E.), whereas the servants of a private firm are assessed under Schedule (D.) on the average system. This is considered a hardship on the company, and it seems to be the practice of the Revenue authorities to allow the junior officials of a company to be assessed on the average system. This concession is, of course, outside the Act.

Langston (*Surveyor of Taxes*) v. *Glasson*, [1891] 1 Q. B. 567.

The statutes of a college, after declaring that the college should consist of a president, fellows, and scholars, provided for the appointment by the president and fellows of a bursar, and gave them power to regulate the conditions of tenure and the powers, duties, and emoluments of the office: a further statute provided that the college seal should not be affixed to any

act or document except in the presence of (among others) the bursar. The respondent was appointed bursar of the college, in accordance with the provisions of the statutes, at a salary which was fixed by the president and fellows and was paid to him out of the ordinary corporate revenues of the college without any deduction in respect of income tax.

Held, that the respondent, not being a member of the corporate body, although a necessary officer of the college, was liable to direct assessment to income tax upon the amount of his salary, as holding an office or employment of profit under Schedule (E.).

1897. *Bray* v. *Brothers*, 3 Tax Cas. 550; 13 T. L. R. 325.

The managing director of a company was assessed for the year ending April, 1905, on his salary.

Prior to that year the business had been owned by him, and he had lost all his money in it.

He claimed to be assessed on the three years' average, so as to take into account the losses when he owned the business. Held that, being assessed under Schedule (E.), he was not entitled to take the average of three years.

23 & 24 Vict. c. 14, s. 6. The Commissioners for Special Purposes to assess the persons employed by railway companies.

The Income Tax Act, 1860—

6. In like manner as aforesaid, the Commissioners for Special Purposes shall assess the duties payable under Schedule (E.) in respect of all offices and employments of profit held in or under any railway company, and shall notify to the secretary or other officer of such company the particulars thereof, and the said assessment shall be deemed to be and shall be an assessment upon the company, and paid, collected, and levied accordingly; and it shall be lawful for the company or such secretary or other officer to deduct and retain out of the fees, emoluments, or salary of each such officer or person the duty so charged in respect of his profits and gains.

39 & 40 Vict. c. 16, s. 9. 40 & 41 Vict. c. 13, s. 7. 46 & 47 Vict. c. 39.

Sect. 6 of 23 & 24 Vict. c. 14 is repealed by sect. 9 of the Customs and Inland Revenue Act, 1876, but is revived by sect. 7 of the Customs, Inland Revenue and Savings Bank Act, 1877.

Both the repealing and the reviving sections are repealed by the Statute Law Revision Act, 1883, so that sect. 6 of 23 & 24 Vict. c. 14 remains intact.

1864. *Att.-Gen.* v. *Lancashire and Yorkshire Railway Co.*, 2 H. & C. 792; 33 L. J. Ex. 163; 10 Jur. (N. S.) 705; 10 L. T. 95; 13 W. R. 8.

A railway company is not liable to be assessed under Schedule (E.) of the Income Tax Acts in respect of engine-drivers, porters, and labourers, whether employed by them at annual salaries, or at weekly wages amounting to 100*l.* a year; but such servants are assessable under Schedule (D.).

Schedule (E.) extends only to offices or employments under corporations which are of a public nature.

5 & 6 Vict. c. 35, s. 146. Fees or other emoluments may be estimated on the profits of the preceding year, or on an average of three years.

The Income Tax Act, 1842—

Fourth.—The perquisites to be assessed under this Act shall be deemed to be such profits of offices and employments as arise from fees or other emoluments, and payable either by the Crown or the subject, in the course of executing such offices or employments, and may be estimated either on the profits of

the preceding year, or of the fair and just average of one year of the amount of the profits thereof in the three years preceding; such years in each case respectively ending on the fifth day of April in each year, or such other day of each year on which the accounts of such profits have been usually made up.

1878. *Inland Revenue* v. *Strang*, 15 S. L. R. 704.

A clergyman of the Established Church received at Christmas time a pecuniary gift of 100*l.*, raised by voluntary subscription among his friends, the majority being members of his congregation. He had received a similar gift at the same time each of the two previous years that he had held the charge. No receipt was granted, and the contributors were under no obligation to repeat the payment.

Held, that this was a payment to the appellant as clergyman, and was received by him in respect of the discharge of the duties of his office, which was one of public employment in the sense of the statutes. The payment was therefore an "emolument" under Schedule (E.), or "gain" under Schedule (D.).

1888. *Turner* v. *Cuxon*, L. R. 22 Q. B. D. 150.

The Council of the Curates Augmentation Fund made a grant of 50*l.* to a curate in recognition of faithful service for more than fifteen years. The grant was renewable at the discretion of the council, and such renewal was upon the condition that the curate obtained donations to the fund to half the amount of the grant.

Held, that the curate was not assessable to income tax in respect of the sum granted under Schedule (E.); and Lord Coleridge, C. J., said—

"If *Inland Revenue* v. *Strang* had been the same as this, I should have felt myself bound to differ from it; but the circumstances are different. There the payment was made to the minister by his parishioners in return for, and as an acknowledgment of, his services in the parish, and might properly be said to arise from his office or vocation. Here that is not so, but the payment is a gift made by a society to a deserving man upon certain conditions; it is a purely voluntary gift, there could be no claim upon the society, and it is not made in respect of the parish of which the respondent is the curate." Lord Coleridge, C. J., *S. C.*

Herbert v. *McQuade*, [1902] 2 K. B. 631.

Grant to a beneficed clergyman from the Victoria Clergy Sustentation Fund.

The fund is not intended as a charity, but aims at providing a fair remuneration for work done.

No inquiry is made into the personal circumstances of the incumbent.

The onus rests on the incumbent to decide whether his own circumstances really justify him in applying for the benefit of the fund.

Where a benefice falls vacant during the year for which the grant is made, the grant is divided between the outgoing and incoming incumbents in proportion to the length of time for which each has been incumbent.

Held, that the grant was subject to income-tax.

"Looking at the definition of 'perquisites' in the fourth rule, we find that they are profits of the office of a particular kind, and in defining them the word 'payable' is used; but the object of the Legislature seems to me to have been, not to limit the duty to perquisites, but to extend it to profits of all kinds accruing in any way whatsoever, and I can see no foundation for the limitation which the learned judge has discovered for the word 'accruing'": Stirling, L. J. Stirling, L. J.

1905. *Poynting* v. *Faulkner*, 5 Tax Cas. 145; 21 T. L. R. 560; 93 L. T. 367.

Grants from the Ministers' Stipend Augmentation Fund are assessable to income tax. Looking at the whole character of the fund, the grants are not a personal gift, but an augmentation of the stipend of the minister.

1905. *Turton* v. *Cooper*, 92 L. T. 863; 21 T. L. R. 546; 5 Tax Cas. 138.

Money collected in church given to a clergyman by reason of his office as incumbent, but which would not have been so dealt with had he not been poorly off, is not assessable to income tax.

1907. *Cooper* v. *Blakiston*, 23 T. L. R. 663 (C. A.).

Easter offerings given as free-will personal gifts to the incumbent are assessable to income tax.

1904. *Smyth* v. *Stretton*, 5 Tax Cas. 36; 20 T. L. R. 443; 90 L. T. 756; 53 W. R. 288.

Under a scheme for a provident fund an "increase of salary" amounting to 5 per cent. was to be received by a master on retirement or death, and a further "increase of salary" conditionally.

Held, that the whole sum was taxable as an addition to the salary of the master.

5 & 6 Vict. c. 35, s. 146. The duties on salaries, fees, pensions, &c. payable at any public office to be stopped in case of non-payment.

Fifth.—In all cases where any salaries, fees, wages, or other perquisites or profits, or any annuities, pensions, or stipends, shall be payable at any public office, or by any officer of her Majesty's household, or by any of her Majesty's receivers or paymasters, or by any agent employed in that behalf, the duties chargeable under this Act in respect of such salaries, fees, wages, perquisites, or profits, or in respect of such annuities, pensions, or stipends, shall be detained and stopped out of the same or out of any money which shall be payable upon such salaries, fees, wages, perquisites, or profits, or upon such annuities, pensions, or stipends, or for the arrears thereof, whenever the same shall happen, and be applied to the satisfaction of the duties on such offices, or employments, or on such annuities, pensions, or stipends, respectively, (not being otherwise paid,) in the manner directed by this Act; and whenever the same so payable shall be assessed by the Commissioners for General Purposes in their respective districts, they shall transmit an account of the amount of the duty assessed to the office where the same are payable, in order that the amount so assessed may be there stopped or detained:

Duties on salaries, &c. not arising from offices mentioned in the foregoing rule to be stopped by persons paying such salaries, fees, &c.

Sixth.—In all cases where the salaries, fees, wages, allowances, or profits of any officer chargeable to the said duties shall not arise out of any of the offices mentioned in the foregoing rule, but shall arise from any other office or employment of profit chargeable to the said duties, and the salaries, fees, wages, perquisites, or profits shall be payable at such office by any officer thereof, or by any receiver of the same respectively, or by any agent employed in that behalf, the duties chargeable under this Act in respect of such salaries, fees, wages, perquisites, or profits shall be detained and stopped out of the same, or out of any money which shall be paid upon such salaries,

fees, wages, perquisites, or profits, or for arrears thereof, whenever the same shall happen, and be applied to the satisfaction of the duties (not otherwise paid) in the manner directed by this Act:

Such portion of the duties as are charged with sums payable to any other persons to be deducted out of such sums.

Seventh.—Such portion of the said duties on offices or employments of profit, or on annuities, pensions, or stipends, as are charged with any sum of money payable to any other person, shall be deducted out of the sum payable to such other person, as a like rate on such sum would amount unto; and all such persons, their agents and receivers, shall allow such deductions and payments upon receipt of the residue of such sums:

Duty paid by the principal in an office upon salary paid to his deputy or clerk to be deducted out of such salary.

Eighth.—Such portion of the said duties charged on any office or employment of profit executed by any deputy or clerk, or other person employed under the principal in such office, and paid by such principal out of the salary, fees, wages, perquisites, or profits of such principal, shall be deducted out of the salary or wages so payable as a like rate on such salary or wages would amount unto; and all such deputies, clerks, and other persons so employed shall allow to their respective principals such deductions and payments upon the receipt of the residue of such salaries or wages:

Payments on receipt of salaries, &c. or in passing accounts, or upon the receipt of pensions, to be deducted.

Ninth.—In estimating the duty payable for any such office or employment of profit, or any pension, annuity, or stipend, all official deductions and payments made upon the receipt of the salaries, fees, wages, perquisites, and profits thereof, or in passing the accounts belonging to such office, or upon the receipt of such pension, annuity, or stipend, shall be allowed to be deducted, provided a due account thereof be rendered to the said Commissioners, and proved to their satisfaction:

Pensions payable out of a branch of revenue to be charged by the Commissioners there.

Tenth.—In all cases where any annuity or pension shall be payable out of any particular branch of the public revenue, and at the office of that branch of revenue, the Commissioners acting for that department shall have authority to assess and levy the same as a salary or wages payable thereout.

Procedure.

The Income Tax Act, 1842— 5 & 6 Vict. c. 35, s. 147.

Persons assessed for offices to be deemed to have exercised the same at the head office.

147. And be it enacted, that every person to be assessed for his office or employment shall be deemed to have exercised the same at the head office of the department under which such office or employment shall be held, and shall be rated for such office or employment as if exercised at such head office, although the duties of such office or employment shall be performed, or the profits or

any part thereof arising from such office or employment shall be payable elsewhere, within or out of the United Kingdom; and all assessments made on any inferior officer, wherever he shall exercise his office or employment, shall be rated accordingly in the same district where such head office shall be established; and every office shall be deemed to belong to and to be assessed by or under the principal officers of that department by or under whom the appointment to such office was made, provided that where such appointment shall be made by any inferior officer in any department, then such office shall be assessed by the same Commissioners by whom such inferior officer shall be chargeable for his office: Provided that where any such appointment shall be held under the Great Seal or Privy Seal either of England or Scotland, or shall be made under the Royal Sign Manual, or where any such appointment shall be under the hands or seals of the Treasury, and the same shall not be exercised in the department of the Treasury, then the officer holding the same shall be assessed in that department where the office shall have been executed: Provided also, that nothing herein contained shall be construed to limit the right hereinbefore given to Commissioners of the district of assessing offices before described within their respective jurisdictions, although such offices, or any of them, may not be held under their appointment, or the profits of such offices may not be payable by them or their order.

In what departments officers shall be assessed.

Allowances and Deductions.

5 & 6 Vict. c. 35, s. 149. Certain allowances to trustees of British Museum, and the like exemptions as now allowed to charitable institutions.

149. Provided always, and be it enacted, that the like allowances shall be granted to the Trustees of the British Museum in respect of any charge under Schedule (A.) to be made on the lands and tenements vested in such trustees, as are granted to colleges and other properties mentioned in No. VI. of that schedule; and the like exemptions shall be allowed in respect of any dividends of stock vested in such trustees, or any of them, or in any other for their use, as are granted to charitable institutions by this Act: and no salary or payment made or to be made out of her Majesty's Exchequer to such trustees for the use of such institutions shall be charged at the said Exchequer, provided all salaries of officers or persons employed under the said trustees shall be charged on the said officers respectively.

16 & 17 Vict. c. 34, s. 51. Expenses necessarily incurred in the perform-

The Income Tax Act, 1853—

51. In assessing the duty chargeable under Schedule (E.) of this Act in respect of any public office or employment where the person exercising the same is necessarily obliged to incur and defray out

of the salary, fees, or emoluments of such office or employment the expenses of travelling in the performance of the duties thereof, or of keeping and maintaining a horse to enable him to perform the same, or otherwise to lay out and expend money, wholly, exclusively, and necessarily in the performance of the duties of his office or employment, it shall be lawful to deduct from the amount of the said salary, fees, and emoluments to be assessed under this Act the amount of all such expenses and disbursements necessarily incurred and defrayed in manner aforesaid.

ance of the duties of a public office to be deducted from the amount of salary, &c. to be assessed.

1887. *Cook* v. *Knott*, 4 T. L. R. 164; 2 Tax Cas. 246.

A person holding two or more public offices in places at some distance is not entitled to deduct his travelling expenses between the different places.

1890. *Revell* (*Surveyor of Taxes*) v. *Directors of Elworthy Brothers*, 3 Tax Cas. 12.

The directors of a company travel from their residences to the place of meeting of the company.

Held, that the travelling expenses are not an allowable deduction under sect. 51.

1891. *Bowers* (*Surveyor of Taxes*) v. *Harding*, [1891] 1 Q. B. 560.

The respondent and his wife were master and mistress of a national school, and were paid a joint salary. The respondent was assessed to income tax under Schedule (E.) on the joint income of himself and his wife. A further allowance was claimed for the wages and maintenance of a domestic servant, whose employment was necessary in order that the duties of the respondent's household might be carried on while his wife was engaged in the school.

Held, that the deduction claimed was not for money wholly, exclusively, and necessarily expended in the performance of the duties of the respondent's office or employment within the meaning of sect. 51.

An abatement is allowed under Schedules (D.) and (E.) to persons who have made insurance or contracted for a deferred annuity on the lives of themselves or wives in respect of the annual premiums. We have already given the Acts when considering Schedule (D.). See p. 278. As they can be conveniently referred to, and do not depend on any section of Schedule (E.), we do not repeat them here.

Abatement in respect of the annual premiums of certain insurances.

The Income Tax Act, 1853—

16 & 17 Vict. c. 34, s. 52. Abatement of duty to be made to clergymen for expenses incurred in performance of their duties.

52. In assessing the duty chargeable under any schedule of this Act upon any clergyman or minister of any religious denomination in respect of any profits, fees, or emoluments of his profession or vocation it shall be lawful to deduct from such profits, fees, or emoluments any sum or sums of money paid or expenses incurred by him wholly, exclusively, and necessarily in the performance of his duty or function as such clergyman or minister; and if such sum or sums or expenses shall not have been deducted as aforesaid, then a proportionate part of the duty charged and paid by such clergyman or minister shall, on due proof to the Commissioners of such sum or sums having been expended as aforesaid, be repaid to such clergyman or minister.

1884. *Lothian* v. *Macrae*, 12 R. 336; 22 S. L. R. 219; 2 Tax Cas. 65.

The 52nd section does not apply to a sum of money contributed by a minister who, from his age, required the services of an assistant, to make up that assistant's salary to a certain fixed sum, the rest of which was raised by the congregation.

1890. *Charlton* v. *Corke*, 17 R. 785.

A minister of the Church of Scotland is entitled under sect. 52 to deduct from his emoluments—1. Expenses incurred by him in visiting members of his congregation beyond the limits of his parish. 2. Travelling expenses involved in the discharge of duties laid upon him by his ecclesiastical superiors.

1906. *Jardine* v. *Inland Revenue*, 44 S. L. R. 136; 9 F. 77.

A minister claimed repayment under sect. 52 of—

	Expense. £	s.	d.
(1) Keep of horse and carriage	30	0	0
(2) Allowance for Communion—Elements under Decree of Locality of Teinds	8	6	8
(3) Expenses of augmentation of stipends ...	32	2	7
(4) Pulpit supply during holiday	6	6	0

The Commissioners disallowed (3) and (4).

They allowed 20*l.* on (1) and 5*l.* on (2).

Held, that (3) and (4) were rightly disallowed; that (1) was a question of fact that could not be disturbed, and that (2) was probably not taxable income rather than a subject of deduction, but, having been so dealt with, it could not be interfered with.

7 Edw. 7, c. 13, s. 28. Deductions by clergymen or ministers of religion in respect of dwelling-houses in certain cases.

The Finance Act, 1907—

28. Where a clergyman or minister of any religious denomination pays rent for a dwelling-house and uses any part thereof, mainly and substantially for the purposes of his duty or function as such clergyman or minister, such part of the rent of the dwelling-house, not exceeding one-eighth, as the Commissioners by whom any assessment for income tax is made may allow, shall be treated for the purposes of section fifty-two of the Income Tax Act, 1853, as expenses to which the provisions of that section as to deduction and repayment apply.

Procedure.

5 & 6 Vict. c. 35, s. 150. Commissioners on offices to take the oaths prescribed, and to have power to appoint clerks, assessors, and collectors from the officers in their departments,

The Income Tax Act, 1842—

150. And be it enacted, that the several Commissioners authorized to act in the execution of this Act in relation to the duties on offices or employments of profit, and on pensions or stipends, as soon after their appointment respectively as conveniently can be done in their respective departments, shall meet in some convenient place, in order to qualify themselves by taking the oaths prescribed by the Taxes Management Act, 1880, and shall have power to elect a clerk and assessors, and in cases where the duties cannot be stopped and detained at the department of office of the

said Commissioners, or for which the said respective Commissioners shall act, collectors of the said duties to be assessed by them from and amongst the officers in their respective departments, and separate assessors and collectors in each such department, under the cognizance of the same Commissioners, which assessors shall, within a time to be fixed by the respective Commissioners, deliver to them their certificates of assessment, in writing under their hands, to be verified upon their oaths, of the full and just annual value of all offices and employments of profit chargeable under this Act in the department for which they shall be appointed assessors, and of all pensions and stipends, estimated according to this Act, with the names and surnames of the several officers and persons entitled to pensions or stipends, and the several sums of money they ought to pay by virtue of this Act, at the rate of sevenpence for every twenty shillings of such value, without abatement or deduction, and without concealment or favour, upon pain of forfeiture for every neglect in the premises of any sum not exceeding one hundred pounds nor less than twenty pounds, which said assessors are hereby strictly enjoined and required, with all care and diligence, to charge and assess themselves, and all other officers, clerks, and persons employed in their respective departments of office, and with respect to the duty on pensions or stipends to charge and assess all persons entitled unto any such pensions or stipends, and respectively to make their assessments according to the provisions of this Act; and every such assessor shall have free access to all documents and papers whatever in their respective offices touching the salaries, fees, wages, perquisites, and profits of any officer, clerk, or person aforesaid, belonging to their respective offices, and touching the amount of the respective pensions or stipends, and shall be at liberty, whenever the same may be necessary, to require returns from the parties themselves, according to the provisions of this Act, that they may be enabled to make a true assessment in pursuance thereof.

All such assessors to have access to documents, and may require returns.

151. Provided always, and be it enacted, that no person shall, in respect of the profits arising from offices or from pensions or stipends, chargeable before the respective Commissioners appointed for those purposes in their respective departments of office as aforesaid, be liable to the penalty herein contained for not returning a statement of the profits, arising from such office, pension, or stipend, in pursuance of any general notice hereinbefore directed, nor in any case except where the assessor for those profits respectively shall have required a return thereof in pursuance of the next preceding clause.

5 & 6 Vict. c. 35, s. 151. Statements of profits arising from offices not required under a general notice.

5 & 6 Vict. c. 35, s. 152. The full value of offices to be stated, although exemptions are claimed.

152. And be it enacted, that in every case where any person holding such offices or employments, or being entitled unto any pension or stipend as aforesaid, shall claim to be exempt from such assessment, the Commissioners shall nevertheless set down in such assessment the names of such persons, and the full and just annual value of such offices, employments, pensions, or stipends; and the claim to such exemption shall be preferred and examined, and the merits thereof shall be heard and determined, under the regulations of this Act with respect to other assessments.

5 & 6 Vict. c. 35, s. 153. Deputies to pay for principals where they are in the receipt of the profits. Officers receiving salaries or fees to be answerable for duties.

153. And be it enacted, that where any office or employment of profit chargeable by this Act is or shall be executed by deputy, such deputy shall, in all cases where he shall be in the receipt of the profits thereof, be answerable for and shall pay such assessment as shall be charged thereon, and deduct the same out of the profits of such office or employment; and where the salaries, fees, wages, emoluments, or profits of any officer or officers in any such office shall be receivable by any one or more of the said officers for the use of such officer, or as a fund to be divided amongst such officers in certain proportions, the officer or officers receiving such salaries, fees, wages, perquisites, or profits shall be answerable for the duties charged thereon, and shall pay the same, and deduct the same out of the funds provided for such respective offices or employments, before any division or apportionment thereof, and in case of refusal or nonpayment thereof shall be liable to such distress as by this Act is prescribed against any person having the office or employment, and to all other remedies and penalties respectively herein contained.

5 & 6 Vict. c. 35, s. 154. Assessors to be furnished with accounts of salaries, &c. in public departments; and may require returns of salaries and profits of offices.

154. And be it enacted, that the proper officers, or their respective deputies, and the receivers and paymasters in every public department of office, and in every other office for which Commissioners are hereby intended to be appointed for raising the duties hereby charged on such offices respectively, and any agent by whom any salaries, fees, wages, perquisites, or profits shall be payable, shall, upon request to him made by the assessors of the said duties, deliver gratis true lists or accounts of all such salaries, fees, wages, perquisites, and profits received by him, and belonging to such officers respectively, and of all pensions and stipends payable to them respectively, for the better guidance of the said assessors in charging the same; and if the said assessors shall be dissatisfied with such accounts it shall be lawful for them to require any officer whose office shall not be truly valued in such account to prepare and produce to them, within the like period of time as is limited

for the returns of other accounts by this Act, a list or account of the salaries, fees, wages, perquisites, and profits of the office exercised by him, which returns such officer shall be obliged to make under the penalties and forfeitures contained in this Act for not making other returns hereby required; and from the documents and papers in their respective offices the said assessors shall make their assessment upon the persons holding such offices, or entitled unto such pensions respectively, according to the annual value thereof, and shall in like manner as is before directed with respect to assessors for any parish or place bring in their said assessments to the respective Commissioners for their allowance, who shall forthwith set their hands to the same, which assessments shall be in force for one year, commencing and payable at the like periods as the assessments in parishes are made payable; and the said respective Commissioners for the duties on offices shall, in all cases where collectors are authorized to be appointed, cause the like duplicates to be made thereof, and delivered to collectors, with like warrants to collect the said duties, as are before directed to be given to collectors for any parish or place; and the said collectors of the said duties on offices shall have the like authority to demand and levy the said duties as is herein given to collectors of any parish or place: Provided always, that in all cases where the duties, and any salaries, fees, wages, perquisites, or profits of any public office shall be detained and stopped out of the same, or out of any moneys which shall be paid thereupon, the respective Commissioners shall cause the like duplicates to be delivered to the proper officers in the respective offices, who shall keep true accounts of all moneys stopped and detained under the authority of this Act, and shall be answerable for the same; and the money so detained of the duty on annuities, pensions, or stipends shall be accounted for and paid in the manner hereinafter directed.

To make up their assessments from the documents in their offices, and deliver them to the Commissioners.

155. And be it enacted, that where any person having, using, or exercising any office or employment of profit which shall be charged to the duties by this Act granted thereon, and the said duties cannot be detained and stopped in the hands of the proper officer, or in the hands of any agent employed to pay the moneys due in respect of the said office or employment, or the same moneys shall have been paid over to the person having, using, or exercising the said office or employment, and such person shall refuse or neglect to pay the sum of money charged upon him, the Commissioners for raising the duties on the said offices shall and may, by writing under their hands and seals, certify such neglect or refusal, and the sum payable by virtue of this Act, to the Commissioners

5 & 6 Vict. c. 35, s. 155. Duties on offices which cannot be stopped to be certified in case of nonpayment to the Commissioners of the district where the parties reside, who shall issue their warrants for levying the same.

for executing this Act, in relation to lands, tenements, and hereditaments, in the parish or place where such officer shall reside; and such last-mentioned Commissioners are hereby authorized and required, upon receipt of such certificate, by warrant under their hands and seals, to authorize and empower the respective collectors of the said duties, or the collectors of the parish or place where such officer shall reside, to levy the same, by such ways and means as they are authorized to levy the duties charged by them respectively in pursuance of this Act; and such collectors are hereby required to execute such warrant accordingly, and which shall be executed under the like powers and in like manner as is hereinafter directed, and as if such officer were charged to the said duties in such parish or place; and the moneys arising thereby shall be paid to the collectors charged to the said duties on such office or employment.

5 & 6 Vict. c. 35, s. 156. No qualification to be required of Commissioners on offices and public annuities.

156. Provided always, and be it enacted, that no qualification shall be required of any of the officers or persons herein described to be Commissioners for the duties on offices, or on employments of profit, or on pensions, stipends, annuities, interests, or dividends, contained in the said several schedules, who shall act as such Commissioners by virtue of their several offices, other than such offices respectively, anything herein contained to the contrary notwithstanding.

5 & 6 Vict. c. 35, s. 157. Officers acting in raising the duties on offices liable to penalties for default.

157. And be it enacted, that the respective assessors and collectors appointed to raise and assess, or levy, collect, and pay, the sums of money to be charged on offices or employments of profit, or on annuities, pensions, or stipends payable by her Majesty by virtue of this Act, and also the inspectors and surveyors acting in relation to the said duties, shall respectively be subject to the penalties and forfeitures for refusing or neglecting the performance of their duty, or for being guilty of any fraud or abuse in executing the same, as are inflicted on such officers respectively for the like offences by the Taxes Management Act, 1880.

Part IV.

(A.)—PERSONS TO BE CHARGED.

The most frequent question that arises under the Income Tax Acts is in the following form:—Is A. (a person) liable to pay income tax on B. (property)? This is a double question, and may be split up into the two following questions:—(1) Is B. (property) chargeable under the Income Tax Acts? (2) If so, is A. the person liable to pay the tax? Now the great majority of the cases under the Income Tax Acts are answers to the former question. The second question is generally easy to answer, because the Acts have, as a rule, made it clear who is the proper person to pay the tax, and what persons are exempted from payment thereof. It is the second question with which we now propose to deal.

Question which usually arises under the Income Tax Acts.

The second question must fall under one of three heads: (a) It may not be dealt with by the Income Tax Acts at all; (b) It may be dealt with by general rules in the Acts applying to all the schedules; (c) It may be dealt with by the Acts under the particular schedule in which the property B. is charged. It will be seen that (a) and (b) are independent of the question as to what B. is; but (c) is not so. We propose now only to deal with questions that fall under (a) and (b), questions that fall under (c) having already been dealt with under the schedules themselves.

(a) *Questions not dealt with by the Income Tax Acts—*

(1.)—The Crown is exempt from the payment of Income Tax.

It is a well-known rule of law that the Crown, by virtue of its prerogative, is not bound by any statute, unless it be expressly named (see Lord Kenyon, C. J., in *R.* v. *Cook*); and therefore the Crown is not subject to income tax.

1790, *R.* v. *Cook*, 3 T. R. 521.

We have now to consider the application of this principle to income tax, and as the principle applies equally to the poor rate, the cases on the latter are here authorities with regard to income tax.

"It seems to me that it is not material whether the assessment statute imposing any tax does so, like the Poor Rate Acts, for a local purpose, or, like the statute imposing a duty on post-horses, considered in *R.* v. *Cook* (3 T. R. 519), or the income tax, for an imperial purpose. In each there is an implied exemption on the ground of prerogative. And if the property is so held as to bring it within the ground of exemption for the one statute, it must surely be brought within the ground of exemption for the other": Lord Blackburn, in *Coomber* v. *Justices of Berks*.

1883, *Coomber* v. *Justices of Berks*, L. R. 9 Ap. Cas. 61; 53 L. J. Q. B. 239.

The application of the principle is given by Lord Westbury in *Mersey Docks* v. *Cameron*. "The only occupier exempt from the operation of the Act is the king, because he is not named in the statute, and the direct and immediate servants of the Crown, whose occupation is the occupation of the Crown itself, also come within the exemption. But the ground of exemption does not warrant many decisions which have held that property used for public

1864, *Mersey Docks* v. *Cameron*, 11 H. L. C. 443; 35 L. J. M. C. 1.

purposes is not rateable." The passage cited from Lord Westbury's judgment gives at once the rule and its limits. Before the *Mersey Docks* v. *Cameron*, the cases were in direct conflict as to whether the principle "that property used for public purposes is not rateable," was correct. The *Mersey Docks* v. *Cameron* decided this point, but it left untouched a large class of cases which lie on the borderland between occupation for public purposes, but not by the Crown, and occupation for public purposes by the Crown and its servants.

What is occupation by the Crown. Blackburn, J., and other judges, in 1864, *Mersey Docks* v. *Cameron*, 11 H. L. C. 460; 35 L. J. M. C. 1.

"Long series of cases have established that where property is occupied for the purposes of the government of the country, including under that head the police and the administration of justice, no one is rateable in respect of such occupation. And this applies not only to property occupied for such purposes by the servants of the great departments of State, such as the Post Office, *Smith* v. *Birmingham*, 7 E. & B. 483; the Horse Guards, *Lord Amherst* v. *Lord Sommers*, 2 T. R. 372; or the Admiralty, *The Queen* v. *Stewart*, 8 E. & B. 360; in all which cases the occupiers might strictly be called the servants of the Crown, but also to property occupied by local police, *Justices of Lancashire* v. *Shelford*, E. B. & E. 225, to county buildings occupied for the assizes, and for the judges' lodgings, *Hodgson* v. *Local Board of Carlisle*, 8 E. & B. 116; or occupied as a county court, *R.* v. *Manchester*, 3 E. & B. 336; or for a jail, *R.* v. *Shepherd*, 1 Q. B. 170. In these latter cases it is difficult to maintain that the occupants are, strictly speaking, servants of the Sovereign, so as to make the occupation that of her Majesty; but the purposes are all public purposes, of that kind which, by the constitution of this country, fall within the province of government, and are committed to the Sovereign, so that the occupiers, though not perhaps strictly servants of the Sovereign, might be considered in *consimili casu*": Blackburn, J., giving the opinion of the majority of the judges in *Mersey Docks* v. *Cameron*.

Lord Blackburn in 1883, *Coomber* v. *Justices of Berks*, 9 Ap. Cas. 61; 53 L. J. Q. B. 239.

As we have said, the *Mersey Docks* v. *Cameron* left these cases untouched, and, indeed, somewhat confirmed them; but in 1883, *Coomber* v. *Justices of Berks*, 9 Ap. Cas. 61, where the question was as to assize courts and a county police station, the exact point arose as to whether they were correct, and was decided in the affirmative; and Lord Blackburn says, at p. 68, citing Lord Westbury, "that the public purposes to make an exemption must be such as are required and created by the Government of the country, and are therefore to be deemed part of the use and service of the Crown," and that "property occupied by the servants of the Crown, and (according to the theory of the Constitution) property occupied for the purposes of the administration of the government of the country is exempt."

The exemption does not extend to tenants of Crown property. Blackburn, J., in *Mersey Docks* v. *Cameron*, *supra*.

It should be observed that the exemption only extends to property occupied by the Crown. It does not extend to tenants of Crown property. "The tenants of Crown property, paying rent for it, are rateable like all other occupiers; and it has even been determined that where apartments in Hampton Court, a royal palace, were gratuitously assigned to a subject, who occupied them by the permission of the Sovereign, but for the subject's benefit, the subject was rateable in respect of her occupation of this royal property, *R.* v. *Lady E. Ponsonby*, 3 Q. B. 14;" Blackburn, J., in *Mersey Docks* v. *Cameron*.

The following is a summary of the principal cases:—

CASES.

Exemption allowed.

Exemption allowed in case of—

1788. *Lord Amherst* v. *Lord Sommers*, 2 T. R. 372; 1 R. R. 497 (The Horse Guards).

1789. *R.* v. *Hurdis*, 3 T. R. 497 (master gunner in occupation of Battery House).

1790. *R.* v. *Cook*, 3 T. R. 521 (post horses).

1841. *R.* v. *Shepherd*, 1 Q. B. 170; 10 L. J. M. C. 44; 4 P. & D. 534; 5 Jur. 432 (Governor of West Riding House of Correction, for house and garden within parcel of prison—matrons and turnkeys for dwellings within walls—justices for porter's lodge, treadmill and workrooms).

1854. *R.* v. *Manchester*, 3 El. & Bl. 336; 23 L. J. M. C. 48; 2 S. L. R. 972; 18 Jur. 267 (County Court).

1855. *De la Beche* v. *James*, 4 El. & Bl. 484; 24 L. J. M. C. 74; 1 Jur. (N. S.) 375; 3 W. R. 161 (Museum of Practical Geology, under control of the Treasury).

1857. *Smith* v. *Birmingham*, 7 El. & Bl. 483; 26 L. J. M. C. 105 (the Post Office).

1857. *R.* v. *Stewart*, 8 El. & Bl. 369 (the War Office).

1858. *Justices of Lancashire* v. *Shelford*, El. Bl. & El. 225; 27 L. J. M. C. 161 (police offices).

1867. *R.* v. *St. Martins, Leicester*, L. R. 2 Q. B. 493; 36 L. J. M. C. 99 (occupation by county police).

1868. *R.* v. *McCann*, L. R. 3 Q. B. 577; 37 L. J. M. C. 123 (tolls of bridge in occupation of Commissioner of Works and Buildings).

1877. *Bent* v. *Roberts*, L. R. 3 Ex. D. 66; 47 L. J. Q. B. 112 (superintendent of police for residence within boundary of police station).

1883. *Coomber* v. *Justices of Berks*, 9 Ap. Cas. 61; 53 L. J. Q. B. 239 (Assize Courts, county police station).

1889. *Magistrates and Town Council of Edinboro'* v. *Surveyor of Taxes* (*Adam* v. *Maughan*), 17 Scot. Sess. Cas. 4th Series, 73; 27 S. L. R. 64; 2 Tax Cas. 541 (Burgh Court).

1899. *Cross* v. *West Derby Union*, 81 L. T. 645; 64 J. P. 182 (residence of police officers at police station).

Exemptions not allowed in case of—

Exemption not allowed.

1836. *Governors of Bristol Poor* v. *Wait*, 5 A. & E. 1; 5 L. J. (N. S.) M. C. 113 (governors of poor hiring house for paupers).

1839. *R.* v. *Wallingford Union*, 10 A. & E. 259; 8 L. J. M. C. 89 (guardians of the poor for workhouse).

1853. *R.* v. *Temple*, 2 El. & Bl. 160; 22 L. J. M. C. 129 (normal and model school).

1854. *Gambier* v. *Overseers of Lydford*, 3 El. & Bl. 340; 23 L. J. M. C. 69; 2 C. L. R. 951; 18 Jur. 352; 2 W. R. 226 (chaplain, medical officers, &c., for residences outside prison).

1864. *The Mersey Docks* v. *Cameron*, and *Jones* v. *The Mersey Docks*, 11 H. L. C. 443; 35 L. J. M. C. 1; 20 C. B. (N. S.) 56; 12 L. T. 648; 13 W. R. 1069 (docks).

1867. *Justices of Lancashire* v. *Cheetham*, L. R. 3 Q. B. 14; 37 L. J. M. C. 12 (justices letting assize courts).

1868. *Greig* v. *University of Edinborough*, L. R. 1 Sc. Ap. 348 (Edinborough University).

1875. *R.* v. *West Derby*, L. R. 10 Q. B. 283; 44 L. J. M. C. 98 (certified industrial school).

1883. *Martin* v. *Assessment Committee of West Derby*, L. R. 11 Q. B. Div. 145; 52 L. J. M. C. 66 (superintendent of police for residence outside police station).

1884. *Mackay* v. *Stoke-upon-Trent*, 48 J. P. 775 (sergeant of police for residence outside police station).

1888. *Tunnicliffe* v. *Overseers of Birkdale*, L. R. 20 Q. B. D. 450; 56 L. J. M. C. 109 (reformatory school).

1889. *Bray* v. *Justices of Lancashire*, L. R. 22 Q. B. Div. 484; 58 L. J. M. C. 54 (county lunatic asylum).

1889. *Magistrates and Town Council of Edinboro'* v. *Surveyor of Taxes* (*Adam* v. *Maughan*), 17 Scot. Sess. Cas. 4th Series, 73; 27 S. L. R. 64; 2 Tax Cas. 541 (municipal buildings).

1897. *Middlesex C. C.* v. *St. George's, Hanover Square*, [1897] 1 Q. B. 64 (occupation of property for administrative purposes by County Council).

1897. *Worcestershire C. C.* v. *Worcester Union*, [1897] 1 Q. B. 480 (same as preceding case, but also occupied by other persons for Crown purposes).

1901. *Surveyor of Taxes* v. *Smith*, 4 F. 31; 39 S. L. R. 20 (hall in the Sheriff Court buildings of Lanark used for purposes of county administration, and occasionally for the holding of police and magistrates' courts. Offices in same building occupied by town clerk. Offices occupied by Procurator-Fiscal of the Sheriff Court used by him for private as well as official business).

1902. *Monmouth Overseers* v. *Monmouthshire C. C.*, 37 L. T. 65; 66 J. P. 788 (police residence with cell).

(b) *Questions dealt with by General Rules in the Acts applying to all the Schedules.*

(1.) Temporary Absentees and Residents.

5 & 6 Vict. c. 35, s. 39.

The Income Tax Act, 1842—

Temporary absentees to be charged as residents.

39. And be it enacted, that any subject of her Majesty whose ordinary residence shall have been in the United Kingdom, and who shall have departed from the United Kingdom and gone into any parts beyond the seas, for the purpose only of occasional residence, at the time of the execution of this Act, shall be deemed, notwithstanding such temporary absence, a person chargeable to the duties granted by this Act as a person actually residing in the United Kingdom, and shall be assessed and charged accordingly (in manner hereinafter directed) upon the whole amount of his profits or gains, whether the same shall arise from property in the United Kingdom or elsewhere, or from any allowance, annuity, or stipend (except as herein is excepted), or from any profession, employment, trade, or vocation, in the United Kingdom or elsewhere: Provided always, that no person who shall on or after the passing of this Act actually be in the United Kingdom for some temporary purpose only, and not with any view or intent of establishing his residence therein, and who shall not actually have resided in the United Kingdom at one time or several times for a period equal in the whole to six months in any one year, shall be charged with the said duties mentioned in Schedule (D.), as a person residing in the United Kingdom, in respect of the profits or gains received from or out of any possessions in any other of her Majesty's dominions, or any foreign possession, or from securities in any other of her Majesty's dominions, or foreign securities; but nevertheless every such person shall, after such residence in the United Kingdom for such space of time as aforesaid, be chargeable to the said duties for the year commencing on the sixth day of April preceding: Provided also, that any person who shall depart from the United Kingdom after claiming such exemption, and

Temporary residents to be charged after six months residence.

Persons departing after claiming ex-

shall again return to the United Kingdom on or before the fifth day of April next after such claim made, shall be chargeable to the said duties as a person residing in the United Kingdom for the whole of the year in which such claim shall have been made.

Exemption, and returning within the year, to be charged.

Temporary Residents—Exemption.

"Temporary purposes means casual purposes as distinguished from the case of a person who is here in the pursuance of his regular habits of life. Temporary purpose means the opposite of continuous and permanent residence." Lord M'Laren in *Inland Revenue* v. *Cadwalader*.

1904, *Inland Revenue* v. *Cadwalader*, 7 F. 146; 42 S. L. R. 117; 5 Tax Cas. 101.

The exemption does not include a person taking a house in London, and furnishing and residing in it for a less period than six months at any one time, and who then goes elsewhere with his establishment, and resides for the remainder of the year there, leaving behind him some one merely to take care of the house: 1817, *Att.-Gen.* v. *Coote*, 4 Price, 183.

Nor does the exemption extend to a master mariner absent from Great Britain in command of a British ship for an entire fiscal year. During that time he possessed a dwelling-house in Great Britain, in which his wife and children resided, and had no other residence: 1879, *Rogers* v. *Solicitor of Inland Revenue*, 6 Scot. Sess. Cas. 4th Series, 1109; 16 S. L. R. 682; 1 Tax Cas. 225. See also, 1875, *Young* v. *Commissioners of Inland Revenue*, 2 R. 925; 12 S. L. R. 602; 1 Tax Cas. 57.

Nor does the exemption extend to a person who had, for many years, had his only place of business and two residences, a town and country house, in Italy, but who became possessor of an estate in Great Britain in 1875, and was in the habit of living there during the summer months for a period less than six months: 1884, *Lloyd* v. *Solicitor of Inland Revenue*, 11 R. 687; 21 S. L. R. 482; 2 Tax Cas. 37.

Nor to an American barrister practising in New York renting a shooting lodge in Scotland for two months in each year: 1904, *Inland Revenue* v. *Cadwalader*, 7 F. 146; 42 S. L. R. 117; 5 Tax Cas. 101.

See also *Turnbull* v. *Inland Revenue*.

1904, *Turnbull* v. *Inland Revenue*, 7 F. 1; 42 S. L. R. 15.

The point decided in each of the above cases was that the person had a residence, and did not come within the proviso at all.

Assuming, however, that a person did fall within the proviso, there is another question that may arise as to what taxable income the exemption extends.

It will be seen that the exemption extends to possessions and securities, and an interesting question arises as to whether this extends to the profits of a trade or vocation. There seems no more reason why a temporary resident should pay income tax on the profits of a trade or vocation carried on abroad than on the profits from possessions in the more restricted sense of the word. We have two dicta to the effect that he is not liable, but the reasons given are quite different. Lord Shand says the exemption is explanatory and not limited to the subjects therein contained, while Lord Macnaghten says that the word "possessions" includes every source of income (other than securities) belonging to the person chargeable.

Lloyd v. *Solicitor of Inland Revenue*, 11 R. 687; 21 S. L. R. 482; 2 Tax Cas. 37.

"Although the proviso in sect. 39 is in the language of exemption, yet, as I have indicated in the course of the argument, it rather appears to me to be a section of an explanatory nature intended to impose liability, or to show that liability exists in certain circumstances, upon persons who come to this country but who are the subjects of other realms. For although, no doubt, the language there used is the language of exemption, it concludes with words which impose liability, viz., that 'nevertheless every . . . . preceding,' and the clause itself provides that persons who have been 'in Great Britain for some temporary purpose only . . . . or any foreign possessions' and so on, exempting—if you take it as an exemption—only from liability for profits from possessions as distinguished from profits or gains in respect of the carrying on of a profession or vocation or trade. If it be an exempting clause only, the result would be that a person coming for a temporary purpose only, with no view of establishing a residence, and who does not remain for six months in all, would nevertheless be liable for income tax upon

profits upon any trade or vocation, which I do not think is the meaning of this section": Lord Shand, in *Lloyd* v. *Solicitor of Inland Revenue.*

1889, *Colquhoun* v. *Brooks*, L. R. 14 Ap. Cas. 516.

"The only way to give a rational meaning to sect. 39 is to construe the expression 'possessions in Ireland' (*a*) as including every source of Irish income (other than Irish securities which are separately mentioned) belonging to the person chargeable"; Lord Macnaghten, in *Colquhoun* v. *Brooks.*

(*a*) The words "Ireland or" are repealed by the Statute Law Revision (No. 2) Act, 1874, as the income tax now applies to Ireland. See the appendix for the original section.

Ireland.

The income tax was extended to Ireland by the Income Tax Act, 1853.

The following section of that Act deals particularly with sect. 39 of the Income Tax Act, 1842:—

16 & 17 Vict. c. 34, s. 6.

6. Provided always, that nothing in the said first-mentioned Act (*a*) contained shall be deemed or construed to extend to exempt any person, although not resident in any part of the United Kingdom, from the duties granted by this Act in respect of the profits or gains received from or out of any possessions or securities in Ireland, or to exempt any person resident in any part of the United Kingdom from the said duties in respect of the profits or gains received from or out of any possessions or securities in any other of her Majesty's dominions, or any foreign possessions or securities.

(*a*) The Act of 1842.

Owing to the alteration made by the Act of 1853 the words "The United Kingdom" in sect. 39 have been substituted for the words "Great Britain" in the original section.

(2.) Corporations and Societies.

5 & 6 Vict. c. 35, s. 40. Corporations and societies to be charged with duties, and their officers to do all acts requisite for assessment.

The Income Tax Act, 1842—

40. And be it enacted, that all bodies politic, corporate, or collegiate, companies, fraternities, fellowships, or societies of persons, whether corporate or not corporate, shall be chargeable with such and the like duties as any person will under and by virtue of this Act be chargeable with, and that the chamberlain or other officer acting as treasurer, auditor, or receiver for the time being of every such corporation, company, fraternity, fellowship, or society shall be answerable for doing all such acts, matters, and things as shall be required to be done by virtue of this Act, in order to the assessing such bodies corporate, companies, fraternities, fellowships, or societies to the duties granted by this Act, and paying the same.

42 & 43 Vict. c. 21, s. 18. Officers of corporations

By the Customs and Inland Revenue Act, 1879—

18. Every officer of any corporation, company, fraternity, fellowship, or society who is answerable under the provisions of

the 40th section of 5 & 6 Vict. c. 35, for doing all such acts, matters, and things as shall be required to be done by virtue of the said Act in order to the assessing the corporation, company, fraternity, fellowship, or society to the duties of income tax, shall also be answerable under the provisions of the 50th and 55th sections of the same Act for doing all such acts, matters, or things as shall be required to be done by virtue of the said Act in order to the assessing the officers and persons in the employment of the corporation, company, fraternity, fellowship, or society to the duties of income tax.

and societies to do all acts requisite for assessment of persons employed by the corporations or societies.

The Finance Act, 1907—

7 Edw. 7, c. 13, s. 22 (2).

22.—(2) The duties imposed on officers of any corporation, company, fraternity, fellowship, or society by sections 40 and 54 of the Income Tax Act, 1842, and by section 18 of the Customs and Inland Revenue Act, 1879, shall in the case of any company, be performed by the secretary of the company or other officer (by whatever name called) performing the duties of secretary.

(3.) Trustees, Guardians, Factors, and Agents.

The Income Tax Act, 1842—

5 & 6 Vict. c. 35, s. 41. Trustees and guardians of incapacitated persons to be charged.

41. And be it enacted, that the trustee, guardian, tutor, curator, or committee of any person, being an infant, or married woman, lunatic, idiot, or insane, and having the direction, control, or management of the property or concern of such infant, married woman, lunatic, idiot, or insane person, whether such infant, married woman, lunatic, idiot, or insane person shall reside in the United Kindom or not, shall be chargeable to the said duties in like manner and to the same amount as would be charged if such infant were of full age, or such married woman were sole, or such lunatic, idiot, or insane person were capable of acting for himself; and any person not resident in the United Kingdom, whether a subject of her Majesty or not, shall be chargeable in the name of such trustee, guardian, tutor, curator, or committee, or of any factor, agent, or receiver, having the receipt of any profits or gains arising as herein mentioned, and belonging to such person, in the like manner and to the like amount as would be charged if such person were resident in the United Kingdom, and in the actual receipt thereof; and every such trustee, guardian, tutor, curator, committee, agent, or receiver shall be answerable for the doing of all such acts, matters, and things as shall be required to be done by virtue of this Act in order to the assessing of any such person to the duties granted by this Act, and paying the same.

Non-residents to be charged in the names of their factors or agents.

1897, *Wingate* v. *Inland Revenue*, 24 Sc. Sess. Cas. 4th Series, 939; 32 S. L. R. 699.

For an example of an agent charged, see *Wingate* v. *Inland Revenue*. It is unnecessary to designate the person charged as agent. *S. C.*

It does not follow that because no one can be found to be assessed as an agent or factor no such trade is carried on as was intended by the statute. "If the Crown can find such an agent as is described in sect. 41, they can assess him; but, supposing they cannot, they must take such means as they are able to get at the person who should be assessed": Lord Esher, M. R., in *Werle* v. *Colquhoun*.

1888, *Werle* v. *Colquhoun*, L. R. 20 Q. B. Div. 760.

"The right to assess is not limited by sect. 41, which is only machinery": Lord Esher, M. R., *S. C.*

1885, *Tischler & Co.* v. *Apthorpe*, 52 L. T. N. S. 816; 33 W. R. 548; 2 Tax Cas. 89.

"It was objected that the Income Tax Commissioners had no power to recover from the principal the amount of the assessment, but must make their charge against the agent, and against the agent only. The language of sect. 41 justified for the moment that construction of it; but when I look at sect. 41 and afterwards to sect. 44 (*post*, p. 327), it seems to me perfectly clear that sect. 41 is intended to aid the Commissioners in recovering the tax, and not to alter the incidence of taxation in any way. That is manifest to my mind from sect. 44, which points out the object of sect. 41. Under sect. 44, the agent who is charged under sect. 41 is entitled to recover from his principal, as the person really liable, any payment he may make. If the principal can be got at, there is no need to have recourse to sect. 41. When the case arises contemplated by sect. 41 of a person resident abroad who cannot be reached by the Commissioners, then the Commissioners are entitled to fall back upon the valuable and useful provisions contained in those two sections": Mathew, J., in *Tischler & Co.* v. *Apthorpe*.

"It was argued that, by reason of a provision of sect. 41 of the old Income Tax Act (5 & 6 Vict. c. 35), Mr. Tischler is not the person to make the return, but that it should be made by his agent in this country; and I agree with my brother Mathew that, at first sight, there seemed to be some substance in that argument; but, having carefully looked into the 41st section, and also the subsequent section (44), to which my attention has been called, I am clearly of opinion that sect. 41 was not passed in derogation of the rights of the Crown with regard to the revenue, but, on the contrary, in aid and support of them. If the principal is in this country, and the notices prescribed by sects 48 and 52 can be served on him, it seems to me there is no reason whatever, as he is carrying on a trade in this country, why he should not be the person to return the profits of the trade which he exercises in this country. In my opinion, sect. 41 was passed in order, where a person, though trading in this country, whether a subject of her Majesty or not, is not resident here, and so the revenue officers cannot serve the proper notice, and cannot get at him as the principal, that then they should be enabled and entitled to serve the agent who is carrying on that trade in this country on behalf of the principal": Smith, J., *S. C.*

Grainger & Son v. *Gough*, [1896] A. C. 337.

The words "having the receipt of any profits, &c.," control the words "factor" and "agent" as well as the word "receiver": Lord Herschell and Lord Davey, in *Grainger & Son* v. *Gough;* and these words do not mean "any part of the profits or gains," but "the taxable profits or gains of any business": Lord Davey, *S. C.*

As to the liability of parents and guardians of infants, see also p. 96.

5 & 6 Vict. c. 35, s. 42. Trustees or agents of persons of full age, resident in the United Kingdom, not required to do more

42. Provided always, and be it enacted, that no trustee who shall have authorized the receipt of the profits arising from trust property by the person entitled thereunto, or by the agent of such last-mentioned person, and which person shall actually receive the same under such authority, nor any agent or receiver of any person being of full age, and resident in the United Kingdom (other than a married woman, lunatic, idiot, and insane person), who shall return a list in the manner hereinafter required of the name and

residence of such person, shall be required to do any other act for the purpose of assessing such person, unless the Commissioners acting in the execution of this Act in respect of the assessment to be made on such person shall require the testimony of such trustee, agent, or receiver in pursuance of the powers and authorities by this Act given.

than deliver lists of names and residences of such persons.

(4.) Receivers of Trust Property.

The Income Tax Act, 1842—

5 & 6 Vict. c. 35, s. 43. Receivers of trust property appointed by the Court of Chancery or other courts chargeable.

43. And be it enacted, that the receiver appointed by the Court of Chancery, or by any other Court in the United Kingdom, having the direction and control of any property in respect whereof a duty is charged by this Act, whether the title to such property shall be uncertain or not, or subject to any contingency or not, or be depending or be not ascertained by reason of any dispute or other cause, shall be chargeable to the said duties in like manner and to the like amount as would be charged if the said property was not under the direction and control of such Court, and the title thereto was certain, and not subject to any contingency whatever; and every such receiver shall be answerable for doing all such matters and things as shall be required to be done by virtue of this Act, in order to the assessing of the duties granted by this Act, and paying the same.

Retention of Duties out of Trust Moneys.

5 & 6 Vict. c. 35, s 44. Trustees, agents, receivers, and officers may retain the duties charged upon them out of trust moneys.

44. And be it enacted, that where any person, being trustee, agent, factor, or receiver, guardian, tutor, curator, or committee of or for any person, shall be assessed under this Act in respect of such person, or where any chamberlain, treasurer, clerk, or other officer of any corporation, company, fraternity, or society shall be so assessed in respect of such corporation, company, fraternity, or society as aforesaid, it shall be lawful for every such person who shall be so assessed, by and out of the money which shall come to his hands as such trustee, agent, factor, or receiver, guardian, tutor, committee, or curator as aforesaid, or as such chamberlain, treasurer, clerk, or other officer, to retain so much and such part thereof from time to time as shall be sufficient to pay such assessment; and every such trustee, agent, factor, or receiver, guardian, tutor, committee, or curator, chamberlain, treasurer, clerk, or other officer, shall be and is hereby indemnified against every person, corporation, company, fraternity, or society whatsoever, for all payments which he shall make in pursuance and by virtue of this Act.

(5.) Married Women.

5 & 6 Vict. c. 35, s. 45. Married women sole traders, or having separate property, how chargeable.

The Income Tax Act, 1842—

45. And be it enacted, that any married woman acting as a sole trader by the custom of any city or place, or otherwise, or having or being entitled to any property or profits to her sole or separate use, shall be chargeable to such and the like duties, and in like manner, except as hereinafter is mentioned, as if she were actually sole and unmarried: Provided always, that the profits of any married woman living with her husband shall be deemed the profits of the husband, and the same shall be charged in the name of the husband, and not in her name, or of her trustee: Provided also, that any married woman living in the United Kingdom, separate from her husband, whether such husband shall be temporarily absent from her or from the United Kingdom, or otherwise, who shall receive any allowance or remittance from property out of the United Kingdom, shall be charged as a feme sole if entitled thereto in her own right, and as the agent of the husband if she receive the same from or through him, or from his property or on his credit.

Bowers (*Surveyor of Taxes*) v. *Harding*, [1891] 1 Q. B. 560.

The respondent and his wife were master and mistress of a national school, and were paid a joint salary. The respondent was assessed to income tax, on the joint income of himself and his wife.

Held, that by sect. 45, the profits of the wife were rightly charged as the profits of the husband, and the respondent was liable to be assessed on the joint income.

The effect of sect. 45 as laid down by *Bowers* v. *Harding*, has been altered by—

57 & 58 Vict. c. 30, s. 34.

The Finance Act, 1894—

34.—(2.) Where the total joint income of a husband and wife charged to income tax, by way either of assessment or deduction, does not exceed five hundred pounds and, upon any claim under this section, the Commissioners for the general purposes of the Acts relating to income tax are satisfied that such total income includes profits of the wife derived from any profession, employment, or vocation chargeable under Schedule (D.), or from any office or employment of profit chargeable under Schedule (E.), they shall deal with such claim as if it were a claim for exemption or relief or abatement as the case may be in respect of such profits of the wife, and a separate claim, on the part of the husband, for exemption or relief or abatement in respect of the rest of such total income.

Inserted in error
This section is
repealed & replaced
by The Finance Act
1897 § 5 ad

(6.) Deceased Persons.

The Customs and Inland Revenue Act, 1890— 53 & 54 Vict. c. 8, s. 24.

24. Where any person shall die after the passing of this Act without having made a return of all his profits and gains chargeable to income tax with a view to an assessment thereon in due course, an assessment in respect of the profits and gains which arose or accrued to him before his death, may be made at any time within the year of assessment, or within four months after the expiration thereof, upon his executors or administrators, and the amount thereof shall be a debt due from and payable out of his estate. Assessment on estate of deceased persons.

See also p. 96.

The Finance Act, 1907— 7 Edw. 7, c. 13, s. 23.

23.—(2.) The time . . . during which an assessment may be made on the estate of a deceased person under section 24 of the Customs and Inland Revenue Act, 1890 (which relates to the power to make such assessments), shall be any time within the year of assessment or within three years after the expiration thereof. . . .

(7.) Letters Patent.

The Income Tax Act, 1842— 5 & 6 Vict. c. 35, s. 187.

187. And be it enacted, that no letters patent granted by her Majesty or any of her royal progenitors, or to be granted by her Majesty, to any person, city, borough, or town corporate within this realm, of any manner of liberties, privileges, or exemptions from subsidies, tolls, taxes, assessments, or aids, nor any statute granting any salary, annuity, or pension to any person free of any taxes, deductions, or assessments, shall be construed or taken to exempt any person, city, borough, or town corporate, or any of the inhabitants of the same, from the burden and charges of any of the duties granted by this Act; and all *non obstantes* in such statutes or letters patent made or to be made in bar of this Act are hereby declared to be void and of none effect; any such statutes, letters patent, grants, or charters, or any clause of *non obstante*, or other matter or thing therein contained, or any law or statute, to the contrary notwithstanding. No person to be exempt by letters patent.

(8.) Exemption of Person whose income is under £160, and abatement where Incomes are under £400, £500, £600 and £700.

5 & 6 Vict. c. 35, s. 163. Exemption of persons whose income is less than 150*l.* per annum.

The Income Tax Act, 1842—

163. Provided always, and be it enacted, that any person charged or chargeable to the duties granted by this Act, either by assessment, or by way of deduction from any rent, annuity, interest, or other annual payment to which he may be entitled, who shall prove before the Commissioners for General Purposes, in the manner hereinafter mentioned, that the aggregate annual amount of his income, estimated according to the several rules and directions of this Act, is less than one hundred and fifty pounds, shall be exempted from the said duties, and shall be entitled to be repaid the amount of all deductions or payments on account thereof in the manner hereinafter directed, except so much of such duties as the person claiming such exemption shall or may be entitled to charge against any other person, or to deduct or retain from or out of any payment to which such claimant may be or become liable; and such exemption shall be claimed and proved, and the proceedings thereupon shall be had, before the Commissioners for General Purposes in the district where the claimant shall reside, pursuant to and under the powers and provisions by which the duties in Schedule (D.) are herein directed to be ascertained and charged, but nevertheless subject to the rules and directions hereinafter contained.

This exemption was limited by the Income Tax Act, 1853, s. 28, to incomes under 100*l.*, but was restored by—

39 & 40 Vict. c. 16, s. 8. Exemption where income is under 150*l.*

The Customs and Inland Revenue Act, 1876—

8. The exemption granted by the Act of 5 & 6 Vict. c. 35, to persons whose respective incomes are less than one hundred and fifty pounds a year is hereby restored.

61 & 62 Vict. c. 22.

The rest of this section is repealed by the Statute Law Revision Act, 1898.

57 & 58 Vict. c. 30, s. 34. Exemption where income does not exceed 160*l.*, and abatement where income does not exceed 500*l.*

39 & 40 Vict. c. 16.

The Finance Act, 1894—

34. The provisions of the Income Tax Acts with respect to the exemption granted to persons whose respective incomes are less than one hundred and fifty pounds a year, shall extend to persons whose respective incomes do not exceed one hundred and sixty pounds a year, and in lieu of the relief or abatement from income tax granted by section eight of the Customs and Inland Revenue Act, 1876, to persons whose respective incomes are less than four

hundred pounds a year, the following provisions shall have effect :—

(1.) Any person who shall be assessed or charged to any of the duties of income tax granted by this Act, or who shall have paid the same either by deduction or otherwise, and who shall claim and prove in the manner prescribed by the Income Tax Acts, that his total income from all sources, although exceeding one hundred and sixty pounds or upwards, does not exceed five hundred pounds, shall be entitled to relief or abatement, as follows :—

(a) If the total income of such person does not exceed four hundred pounds, to relief from so much of the said duties assessed upon or paid by him as an assessment or charge upon one hundred and sixty pounds of his income would amount to; and

(b) If the total income of such person exceeds four hundred pounds, and does not exceed five hundred pounds, to the relief from so much of the said duties assessed upon or paid by him as an assessment or charge upon one hundred pounds of his income would amount to.

The Finance Act, 1898—

61 & 62 Vict. c. 10. Relief from income tax where income does not exceed 700*l.*

8. Any individual who having been assessed or charged to income tax, or having paid income tax either by deduction or otherwise, claims and proves in manner prescribed by the Income Tax Acts that his total income from all sources, although exceeding one hundred and sixty pounds, does not exceed seven hundred pounds, shall be entitled to relief from income tax equal—

(a) if his total income does not exceed four hundred pounds, to the amount of the income tax upon one hundred and sixty pounds; and

(b) if his total income exceeds four hundred pounds and does not exceed five hundred pounds, to the amount of the income tax upon one hundred and fifty pounds; and

(c) if his total income exceeds five hundred pounds and does not exceed six hundred pounds, to the amount of the income tax upon one hundred and twenty pounds; and

(d) if his total income exceeds six hundred pounds and does not exceed seven hundred pounds, to the amount of the income tax upon seventy pounds;

and such relief shall be given either by reduction of the assessment or by repayment of the excess which has been paid, or by both of those means, as the case may require.

7 Edw. 7, c. 13, s. 19. Relief in respect of earned income where total income does not exceed 2,000*l.*

The Finance Act, 1907—

19.—(1.) Any individual who claims and proves, in manner provided by this section, that his total income from all sources does not exceed two thousand pounds, and that any part of that income is earned income, shall be entitled, subject to the provisions of this section, to such relief from income tax as will reduce the amount payable on the earned income to the amount which would be payable if the tax were charged on that income at the rate of nine pence.

(2.) The relief given by this section shall be in addition to and not in derogation of any exemption, or other relief or abatement under the Income Tax Acts, except that where an individual is entitled to relief from income tax under section eight of the Finance Act, 1898, or, in respect of the payment of premiums, under section fifty-four of the Income Tax Act, 1853 (as extended by any subsequent enactment), relief shall be given under this section only in respect of such earned income (if any) as remains after deducting therefrom the amount on which he is relieved of income tax under the said sections eight and fifty-four.

61 & 62 Vict. c. 10.
16 & 17 Vict. c. 34.

(3.) Where relief is given under section eight of the Finance Act, 1898, or section fifty-four of the Income Tax Act, 1853, by way of repayment of the tax after relief has been given under this section, the amount repaid shall be adjusted so that the total amount of the relief given under this section and under the said sections eight and fifty-four does not exceed the amount which would have been given if the whole relief had been claimed simultaneously.

(4.) An individual who desires relief under this section must in cases where he is required to make a return for the purpose of the assessment of income tax, claim that relief at the time the return is made and must, in any case, claim that relief before the thirtieth day of September in the year for which the tax is charged.

For the purpose of making a claim for relief under this section with respect to income tax charged under this Act for the current year, any individual may, before the thirtieth day of September nineteen hundred and seven, substitute a fresh return for any return previously made by him.

(5.) An individual shall not be entitled to relief under this section in respect of any income the tax on which he is entitled to charge against any other person, or to deduct, retain, or satisfy out of any payment which he is liable to make to any other person.

(6.) Subject to the provisions of this section, all the provisions of the Income Tax Acts which relate to claims for exemption,

relief, or abatement, or the proof to be given with respect to those claims, shall apply to claims for relief under this section and the proof to be given with respect to those claims.

(7.) For the purposes of this section the expression "income" means income as estimated according to the several rules and directions of the Income Tax Acts; and the expression "earned income" means—

(a) any income arising in respect of any remuneration from any office or employment of profit held by the individual, or in respect of any pension, superannuation, or other allowance, deferred pay, or compensation for loss of office given in respect of the past services of the individual or of the husband or parent of the individual in any office or employment of profit, whether the individual or husband or parent of the individual shall have contributed to such pension, superannuation allowance, or deferred pay or not; and

(b) any income from any property which is attached to or forms part of the emoluments of any office or employment of profit held by the individual; and

(c) any income which is charged under Schedules B or D in the Income Tax Act, 1853, or the rules prescribed by Schedule D in the Income Tax Act, 1842, and is immediately derived by the individual from the carrying on or exercise by him of his profession, trade, or vocation either as an individual, or, in the case of a partnership, as a partner personally acting therein.

In cases where a wife's profits are deemed to be profits of the husband, any reference in this provision to the individual includes either the husband or the wife.

(8.) Section thirty-four of the Finance Act, 1894, shall cease to have effect so far as it gives relief or abatement to persons who are entitled to relief under section 8 of the Finance Act, 1898.

Curtis v. *Old Monkland Conservative Association*, L. R. [1906] A. C. 86.

An unincorporated association is not exempt from liability to the payment of income tax by reason of its income not exceeding 160*l.* a year.

Mylam v. *Market Harborough Advertiser Co., Ltd.*, L. R. [1905] 1 K.B. 708.

A limited company registered under the Companies Acts is not exempt from liability to the payment of income tax by reason of its income not exceeding 160*l.* a year.

The Finance Act, 1904—

4 Edw. 7, c. 7, s. 8. Income tax exemption in case of unregistered friendly societies.

8. Whereas doubts have arisen whether unregistered friendly societies are entitled to the exemption from income tax given under the Acts relating to income tax to persons whose income

does not exceed £160, be it enacted that an unregistered friendly society whose income does not exceed £160 is entitled to that exemption.

How Income is estimated.

"I think it is perfectly clear that nothing is to be brought into account on a claim to relief except what is chargeable for the purpose of assessment": Lord Macnaghten in *Tennant* v. *Smith*.

Tennant v. *Smith*, L. R. [1892] A. C. 159; 61 L. J. P. C. 11.

The appellant claimed relief under sect. 8 of 39 & 40 Vict. c. 16, on the ground that his income was less than 400*l*. It appeared that he was agent for a bank, and was bound, as part of his duty, to occupy the bank house as custodier of the whole premises belonging to the bank, and also for the transaction of any special bank business after bank hours. He was not entitled to sublet the bank house or use it for other than bank business, and, in the event of his ceasing to hold his office, he was under obligation to quit the premises forthwith.

Held, that in estimating the appellant's total income from all sources, the yearly value of his privilege of free residence in the bank premises could not be brought into account.

1894. *McDougal* (*Surveyor of Taxes*) v. *Sutherland*, 21 Sc. Sess. Cas. (4th Series) 753; 31 S. L. R. 630.

The annual value of a manse occupied rent free by the minister of a congregation of the Free Church of Scotland, the feudal title to which was in trustees for behoof of the congregation, does not fall to be reckoned as "income" of the minister in the sense of sect. 8 of 39 & 40 Vict. c. 16.

1895. *Cooke* v. *Fry*, 22 Sc. Sess. Cas. (4th Series) 422.

The annual value of a manse occupied by a parish minister must be reckoned as "income" of the minister in the sense of sect. 8 of the Customs and Inland Revenue Act, 1876, since he is entitled to make it a source of revenue by letting it.

1906. *Walker* v. *Reith*, 43 S. L. R. 245.

A percentage of the profits of a business directed by a testator to be credited to the account of an employee, but nevertheless to be employed in paying out the testator's capital so that the employee had no vested interest until the capital was paid out, is not taxable profit in the hands of the employee in considering a claim for abatement.

See also under Claims of Exemption, *ante*, p. 85.

(B.)—MISCELLANEOUS SECTIONS OF GENERAL APPLICATION.

When the Duties are to be deducted.

The Income Tax Act, 1842—

5 & 6 Vict. c. 35, s. 158. When duties are to be detained.

158. Provided always, and be it enacted, that such of the said duties granted by this Act which may be detained or stopped and deducted out of the sums in respect whereof they shall be charged or deducted shall be respectively detained at such times in each year as the said sums shall be payable to the person entitled thereto.

Deductions are not allowed unless expressly enumerated in the Act.

The Income Tax Act, 1842—

5 & 6 Vict. c. 35, s. 159. What deductions shall not be allowed in computing the duties to be charged under this Act.

159. And be it enacted, that in the computation of duty to be made under this Act in any of the cases before mentioned, either by the party making or delivering any list or statement required as aforesaid, or by the respective assessors or Commissioners, it shall not be lawful to make any other deductions therefrom than such as are expressly enumerated in this Act, nor to make any deduction on account of any annual interest, annuity, or other annual payment to be paid to any person out of any profits or gains chargeable by this Act, in regard that a proportionate part of the duty so to be charged is allowed to be deducted on making such payments, nor to make any deduction from the profits or gains arising from any property herein described, or from any office or employment of profit, on account of diminution of capital employed or of loss sustained in any trade, manufacture, adventure, or concern, or in any profession, employment, or vocation.

"'In regard' here is not an expression of the reason of the legislature, but is to render impossible an erroneous view which might otherwise be entertained by the person computing as to his being entitled to make the deduction": Bowen, L. J., in *Alexandria Water Co.* v. *Musgrave*. 1883, *Alexandria Water Co.* v. *Musgrave*, L. R. 11 Q. B. Div. 177; 52 L. J. Q. B. 349.

Commissioners to settle differences respecting Deductions.

The Income Tax Act, 1842—

5 & 6 Vict. c. 35, s. 160. Commis-

160. And be it enacted, that if any difference shall arise

sioners to settle differences respecting deductions to be made on account of duties.

between tenant and landlord, or any other persons to whom any interest, rent, rentcharge, annuity, fee-farm rent, rent service, quitrent, feu duty, or other rent or annual payment shall be payable, touching the sums to be deducted thereout on account of the duties hereby charged having been paid, or between the occupier for the time being and any former occupier of any lands, tenements, hereditaments, or heritages, his executors, administrators, or assigns, touching the proportion of duty to be paid or allowed by either party, the respective Commissioners for General Purposes in their several districts shall have authority, and they are hereby required to settle the proportions of such payments and deductions as shall be according to the directions of this Act, and in default of payment to levy the same respectively under the like powers as they might have levied the same if the assessment had been made in the same proportions, and to pay over the same to the collector or party, as the case may require: and the judgment and determination of such Commissioners shall be final.

Occupations divided during the Year of Assessment.

23 Vict. c. 14 s. 4.

The Income Tax Act, 1860—

4. If since the making of any assessment under Schedules (A.) and (B.) for the year ending the 5th day of April, 1860, the lands thereby charged shall have been divided into two or more distinct occupations, the Commissioners for General Purposes shall, on the appeal of the parties interested respectively, settle and adjust what proportion of the duties granted by this Act under the said schedules shall be paid or borne by each occupier, and the amount apportioned on the respective parties shall be collected and levied in like manner as an original assessment.

Non-payment of Duties does not disqualify from Voting at Elections for Members of Parliament.

5 & 6 Vict. c. 35, s. 184. Nonpayment of duties not to disqualify from voting at elections for Members of Parliament.

The Income Tax Act, 1842—

184. Provided always, and be it enacted, that no neglect or omission to pay, within any limited period, the duties assessed under the authority of this Act in respect of any house or other building, shall prevent any person from being admitted or retained on the register or list of persons entitled to vote in the election of a member or members to serve in Parliament for any city or borough, or from voting at any such election.

The Provisions applied to any particular Schedule may extend to another Schedule.

The Income Tax Act, 1842—

5 & 6 Vict. c. 35, s. 188. Provisions applied to any particular schedule may extend to another schedule in charging the duty.

188. And be it enacted, that every provision in this Act contained, and applied to the duties in any particular schedule, which shall also be applicable to the duties in any other schedule, and not repugnant to the provisions for charging, ascertaining, or levying the duties in such other schedule, shall, in charging, ascertaining, and levying the same, be applied as fully and effectually as if the application thereof had been so expressly and particularly directed; anything herein contained to the contrary notwithstanding.

Tennant v. *Smith*, L. R. [1892] A. C. 160; 61 L. J. P. C. 11.

"The respondent did not rely in argument upon the terms of that clause (sect. 188), the construction of which is by no means free from difficulty. Thus far its terms are clear enough. The provisions of Schedule (D.) with respect to employments and vocations are not to be applied to offices and employments under Schedule (E.), unless they are in the first place 'applicable' to such offices and employments, and, in the second place, not repugnant to the rules of assessment enacted for Schedule (E.). Assuming, for the sake of argument, that the rules of assessment for employments and vocations under Schedule (D.) differed in material respects from the rules for assessing public offices and employments under Schedule (E.), I do not think they would be applicable to cases falling under Schedule (E.), or could be applied without repugnancy, or, in other words, without abrogating *pro tanto* the rules of Schedule (E.)": Lord Watson, in *Tennant* v. *Smith*.

Construction of the Terms used in this Act.

The Income Tax Act, 1842—

5 & 6 Vict. c. 35, s. 192. Construction of the terms used in this Act.

192. And be it enacted, that wherever in this Act, with reference to any person, matter, or thing, any word or words is or are used importing the singular number or the masculine gender only, yet such word or words shall be understood to include several persons as well as one person, females as well as males, bodies politic or corporate as well as individuals, and several matters or things as well as one matter or thing, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction; and that wherever the terms and expressions following occur in this Act they shall be construed respectively in the manner hereinafter directed; (that is to say,) that the term "affidavit" and the term "oath" shall respectively mean and include an affirmation in the case of Quakers or other persons entitled by law to make an affirmation in lieu of an affidavit or oath; the term "England" shall mean and include England and Wales and Berwick-upon-Tweed.

Various.

43 & 44 Vict. c. 19, s. 4 (3).

The Taxes Management Act, 1880—

4.—(3.) All existing bonds and securities given under or in pursuance of any enactment hereby repealed shall have the same force and effect as if they had been given under or in pursuance of this Act.

43 & 44 Vict. c. 19, s. 6. Savings for local Acts.

6. Nothing in this Act shall alter the effect of, or in any way supersede—

17 & 18 Vict. c. 91.

(1.) An Act passed in the session of the seventeenth and eighteenth years of her present Majesty, intituled "An Act for the valuation of lands and heritages in Scotland":

(2.) Any Act amending such last referred-to Act:

32 & 33 Vict. c. 67.

(3.) The Valuation (Metropolis) Act, 1869.

43 & 44 Vict. c. 19, s. 7.

Substitution in former Acts.

7.—(1.) In the several enactments described in the Fourth Schedule (*a*) to this Act a reference to this Act shall be deemed to be substituted for a reference to any one or more of the enactments described in the Third Schedule to this Act, or any enactment amending the same.

(2.) Where any Act passed before this Act and not specified in the Third and Fourth Schedules to this Act refers to any enactment described in the Third Schedule, or to any enactment amending such last referred-to enactment, the reference shall be deemed to be to this Act.

57 & 58 Vict. c. 56.

(*a*) For the Schedule, see Appendix. The Third Schedule is now repealed by the Statute Law Revision Act, 1894.

43 & 44 Vict. c. 19, s. 8. Savings of Special Commissioners' powers.

8.—(1.) Nothing in this Act shall affect the powers conferred on and exercised by the Special Commissioners.

(2.) Any power which in England under or by virtue of this Act may be executed by the General Commissioners may in Ireland be executed by the Special Commissioners.

43 & 44 Vict. c. 19, s. 9. Savings of powers contained in former Acts.

9. All powers, authorities, rules, regulations, directions, and penalties contained in the Tax Acts and Land Tax Acts in regard to the mode of raising, levying, collecting, receiving, accounting for, and securing the duties and the land tax shall, in all cases not expressly provided for by this Act, and so far as the same are not superseded by and are consistent with the express provisions of this Act, be observed, applied, practised, and put in execution throughout the respective parts of the United Kingdom, for raising, levying, collecting, receiving, accounting for, and securing the duties and the land tax as fully and effectually to all intents and pur-

poses as if the same were particularly repeated and re-enacted in this Act.

10. All matters within the jurisdiction of the High Court under this Act shall be assigned— 43 & 44 Vict. c. 19, s. 10. High Court.

(i.) In England and Ireland, subject to the Acts regulating the High Court, to the Exchequer Division of her Majesty's High Court.

(ii.) In Scotland to the Court of Session sitting as a Court of Exchequer.

APPENDICES.

Appendix I.

INTERPRETATION OF THE INCOME TAX ACTS.

There are certain principles, which have been laid down as applicable to the interpretation of the Income Tax Acts, which it is necessary to bear in mind when we are endeavouring to arrive at the meaning of an obscure passage.

They are as follows:—

1. It is a well-established rule that the subject is not to be taxed without clear words for that purpose: see Parke, B., in *Re Micklethwait*, and, therefore, if the Crown cannot bring the subject within the letter of the law, the subject is free, however apparently within the spirit of the law he may be: see Lord Cairns in *Partington* v. *A.-G.* 1855, *Re Micklethwait*, 11 Ex. 452; 25 L. J. Ex. 19. 1869, *Partington* v. *A.-G.*, L. R. 4 H. L. 122; 38 L. J. Ex. 205.
2. If the person sought to be taxed comes within the letter of the law, he must be taxed, however great the hardship may appear to be: see Lord Cairns, *S. C.*

From these two principles may be deduced the following general principle:—

3. If there be admissible in any statute what is called an equitable construction, certainly such construction is not admissible in a taxing statute: see Lord Cairns, *S. C.*

The following passage, from the judgment of Lord Blackburn, in *Coltness Iron Co.* v. *Black*, has been cited with approval by Lord Herschell, in *Colquhoun* v. *Brooks*, and throws considerable light on the interpretation of the Income Tax Acts:— 1881, *Coltness Iron Co.* v. *Black*, L. R. 6 Ap. Cas. 330; 51 L. J. Q. B. 626. 1889, *Colquhoun* v. *Brooks*, L. R. 14 Ap. Cas. 505; 59 L. J. Q. B. 53.

"The object of those framing a Taxing Act is to grant to her Majesty a revenue; no doubt they would prefer, if it were possible, to raise that revenue equally from all, and as that cannot be done, to raise it from those on whom the tax falls, with as little trouble and annoyance and as equally as can be contrived; and when any enactments for the purpose can bear two interpretations, it is reasonable to put that construction upon them which will produce these effects."

Appendix II.

EXTRAORDINARY REMEDIES IN INCOME TAX CASES.

An income tax payer who has paid money to the Crown, to which he believes the Crown is not entitled, on searching the Income Tax Acts for relief, may find himself in the following difficulties:—

1. He may find that the Income Tax Acts have provided a measure for relief which he has neglected to avail himself of.
2. He may find that the Income Tax Acts have provided a measure for relief, but the income tax officers (believing that he has no right to relief) decline to give the necessary certificates and orders for payment which are usually provided in such relief.
3. He may find that the Income Tax Acts have provided no measure for relief.

1887, *Holborn Viaduct Land Co.* v. *R.*, 2 Tax Cas. 228; 52 J. P. 341.

In the first case he must console himself for his loss as best he can; he has no other remedy. See *Holborn Viaduct Land Co.* v. *R.*

In the second case his proper and only remedy is mandamus.

"Officials having a public duty to perform, and having refused to perform it, mandamus will lie on the application of a person interested to compel them to do so": Lord Esher, M. R., in *R.* v. *Commissioners for Special Purposes of Income Tax.*

1888, *R.* v. *Commissioners for Special Purposes of Income Tax* (*Cape Copper Case*), L. R. 21 Q. B. Div. 317; 57 L. J. Q. B. 513.

1884, *Re Nathan*, L. R. 12 Q. B. Div. 470; 53 L. J. Q. B. 229.

In the third case his proper recourse is a petition of right, which is appropriate for the purpose of obtaining restitution of money wrongfully taken and detained by the Crown. See *Re Nathan* (*infra*).

It is very important to apply the remedy that is proper to the circumstances. A petition of right would not be the proper remedy in the second case, nor would a mandamus avail in the third case. A writ of mandamus is never issued when there is any other reasonable remedy. See Brett, M. R., in *Re Nathan.*

Commissioners for Special Purposes of Income Tax v. *Pemsel*, L. R. [1891] A. C. 569; 61 L. J. Q. B. 265.

The following passage from Lord Herschell's judgment in *Commissioners for Special Purposes of Income Tax* v. *Pemsel* shows the difference between the two remedies:—

"It was sought in *Re Nathan* to compel the Commissioners of Inland Revenue to make payment of a certain sum of money to the applicant for the mandamus; and it was held that for such a purpose recourse must be had to a petition of right. Here the applicant seeks that the appellant should be compelled to grant an allowance and certificate, which it is necessary for him to obtain before he is in a position to require payment of the sum which it is no doubt his ultimate object to recover. Until he obtains this allowance and certificate, he is not in a position to maintain a petition of right."

CASES.

1887. *Holborn Viaduct Land Co.* v. *R.*, 2 Tax Cas. 228; 52 J. P. 341.

A land company pays debenture interest in excess of the assessments under Schedule (A.), deducts income tax from the interest, and returns the whole amount deducted for assessment under Schedule (D.):—

Held, that as the proper remedy by appeal had been neglected, a petition of right did not lie to obtain repayment of the sum paid under the Schedule (D.) assessment.

1884. *Re Nathan*, L. R. 12 Q. B. Div. 461; 53 L. J. Q. B. 229.

Sect. 23 of 5 & 6 Vict. c. 79, provides for the return by the Commissioners of Inland Revenue of probate duty on proof by oath and proper vouchers to their satisfaction of the payment of debts of the deceased, whereby the amount of probate duty payable on the estate is reduced below the amount which has been paid. On an application by an administrator for a mandamus to the Commissioners to pay to the applicant the amount of the duty overpaid by him, on the ground that he had supplied evidence of overpayment, and had no other legal remedy:—

Held, that the mandamus ought not to issue, for the statute created no duty between the Commissioners and the applicant, whose remedy, if the decision of the Commissioners could be reviewed, was by petition of right.

1888. *R.* v. *Commissioners for Special Purposes of Income Tax*, L. R. 21 Q. B. Div. 313; 57 L. J. Q. B. 513.

An English company, working mines abroad, made, in March, 1887, an application under sect. 133 of 5 & 6 Vict. c. 35, for certificates in respect of overpayments of income tax, and the Commissioners, by whom the assessments were made having inquired into the case, gave them certificates under the section. The Commissioners for Special Purposes refused to issue orders for repayment on such certificates:—

Held, that the certificates being valid, mandamus lay to compel the Commissioners for Special Purposes to issue orders for repayment of the amounts certified to be overpaid.

The Commissioners for Special Purposes of Income Tax v. *Pemsel*, [1891] A. C. 531; 61 L. J. Q. B. 265.

Where an allowance under sects. 61 and 62 of 5 & 6 Vict. c. 35, ought to be granted and is refused, mandamus lies to the Commissioners commanding them to grant the allowance and to give a certificate of the allowance and an order for the payment thereof.

R. v. *General Commissioners of Taxes for Clerkenwell*, L. R. [1901] 2 K. B. 879.

For the purpose of an assessment on an English company the Commissioners drew the inferences of fact that, having regard to the relation existing between the company and an American company, the business and

profits of the American company were technically the business and profits of the English company; that the head, seat and directing power of the company were at the registered office in London; and that, if the profits of the American business were technically the profits of the American company, that company was for all purposes the agent of the English company.

The English company applied for a writ of prohibition to the Commissioners to prohibit them from assessing that company in respect of the profits of the American company, on the ground that the business of the American company was not in truth the business of the English company, and that the Commissioners, therefore, had not, and could not, by an erroneous decision on the facts, give themselves jurisdiction to assess the English company in respect of the profits of that business.

Held, that the Commissioners, having jurisdiction to assess the English company in respect of profits of a business carried on either wholly or in part only in Great Britain, they had for the purposes of that assessment jurisdiction to decide all questions of fact necessary for ascertaining the amount of those profits, and therefore prohibition would not lie, the proper remedy, if the decision of the Commissioners were wrong in point of law, being by appeal upon a case stated.

THE CROWN'S REMEDY BY INFORMATION.

In the event of the Crown being unable to obtain payment of the income tax by distress, they can proceed by way of Information. In such a case the ordinary plea put in by the defendant is as follows:—

"The defendant, by A. B. his solicitor, says that he is not, nor was, guilty of the matters laid to his charge in the Information, or of either or any part thereof, and of this he puts himself upon the country."

Appendix III.

THE METROPOLIS.

The Metropolis Valuation Act, 1869—

32 & 33 Vict. c. 67, s. 45. Valuation list to be conclusive for purpose of certain rates, taxes, and qualifications.

45. The valuation list for the time being in force shall be deemed to have been duly made in accordance with this Act and the Acts incorporated herewith, and shall for all or any of the purposes in this section mentioned be conclusive evidence of the gross value of the rateable value of the several hereditaments included therein, and of the fact that all hereditaments required to be inserted therein have been so inserted; that is to say,—

* * * * * * *

(2.) For the purpose of any of the following taxes which become chargeable during the year that the list is in force; namely,—

* * * * * * *

(b) Any tax assessed in pursuance of the Income Tax Act, and any Acts continuing or amending the same, on any lands, tenements, and hereditaments, in all cases where the tax is charged on the gross value, and not on profits: 5 & 6 Vict. c. 35, &c.

* * * * * * *

(3.) And in construing the Income Tax Act and any Acts continuing or amending that Act, with respect to Schedules (A.) and (B.) thereof, annual value shall be deemed to mean the gross value stated in such list. 5 & 6 Vict. c. 35, &c.

There is now an allowance for repairs. See the Finance Act, 1894, s. 35, *ante*, p. 153.

32 & 33 Vict. c. 67, s. 8. Duplicate of valuation list sent to surveyor of taxes.

8. The overseers shall send one duplicate of the valuation list to the surveyor of taxes of the district at the same time that the other duplicate is deposited by them. The surveyor of taxes shall insert in the duplicate so sent to him the amount in his opinion of the gross value of the hereditaments comprised in such list where such amount differs from the amount inserted by the overseers, and shall transmit the duplicate to the assessment committee within twenty-eight days after he has received the same.

32 & 33 Vict. c. 67, s. 12. Surveyor of taxes, &c. may inspect, copy, and object to valuation list.

12. A surveyor of taxes, and any ratepayer in the parish, shall have the same right of inspecting, copying, taking extracts from, and objecting to any valuation list which relates to his district or parish as is given to any person by this Act and the Acts incorporated herewith.

32 & 33 Vict. c. 67, s. 53. Amount of gross value specified by the surveyor of taxes to be inserted, unless disproved.

53. When a surveyor of taxes gives notice of objection or of appeal, the amount specified in the notice as being in his judgment the gross value of any hereditament referred to in the notice shall be inserted in the valuation list by the assessment committee, special sessions, or assessment sessions, unless it is proved to the satisfaction of the assessment committee, special sessions, or assessment sessions, that such amount ought not to be inserted.

32 & 33 Vict. c. 67, s. 77. Repeal of Acts herein described.

77. And so much of any Acts, whether public or local and personal, as authorizes any valuation of hereditaments to be made for the purposes of any rate or tax in respect of which the valuation list is by this Act made conclusive, are hereby repealed, where they relate only to the metropolis absolutely, and in other cases so far as they relate to the metropolis.

Sect. 77 is given as amended by the Statute Law Revision Act, 1883.

The above sections are not exhaustive. For further information reference must be made to the Act itself, which is outside the scope of the present work. (See also 47 Vict. c. 5.)

46 & 47 Vict. c. 39.

Appendix IV.

IRELAND.

Before the Income Tax Act, 1853, the income tax did not extend to Ireland. By that Act it was extended to Ireland, but there are a number of sections in the Act of 1853 which alter the procedure, &c. in that country. We have thought it convenient to collect these sections here.

The Income Tax Act, 1853—

16 & 17 Vict. c. 34, s. 7.

Securities.

Duties in respect of securities and possessions in Ireland to be charged in the same manner as securities and possessions of the like nature in Great Britain are chargeable, except as modified by this Act.

7. Provided also, that the duties in respect of interest arising from securities in Ireland, and in respect of possessions in Ireland, which by the said Act of the fifth and sixth years of her Majesty, chapter thirty-five, are directed to be charged and assessed respectively according to certain rules prescribed for charging the duties under the head respectively of "fourth case" and "fifth case" of Schedule (D.), and in section one hundred and six of the said Act, shall under this Act be charged and assessed in Ireland in the same manner and under the same schedules, rules, and regulations respectively as the duties on securities and possessions of the like nature in Great Britain are directed to be charged, except so far as such schedules, rules, and regulations are altered or modified in regard to the assessing or charging of duties in Ireland by the express provisions of this Act.

16 & 17 Vict. c. 34, s. 8.

Persons holding offices in Ireland, and Members of Parliament residing in Ireland, to be chargeable, notwithstanding certain provisions in 5 & 6 Vict. c. 35.

8. Provided also, that, notwithstanding anything in the said Act of the fifth and sixth years of her Majesty contained, persons holding offices in Ireland and residing in Great Britain, and persons usually residing in Ireland and serving in Parliament, shall be chargeable to the duties by this Act granted, without regard to any exemption from the duties of assessed taxes; and that this Act shall extend to charge persons resident in Ireland with the duties under Schedule (E.) in respect of public offices or employments, although the duties thereof are necessarily and permanently performed in Ireland.

16 & 17 Vict. c. 34, s. 11.

Governor and directors of the Bank of Ireland to be Commissioners for assessing duties on annuities, dividends, pensions, and salaries payable by

11. The Governor and Directors of the Bank of Ireland shall be Commissioners for executing this Act, for the purpose of assessing and charging the duties hereby granted in respect of all annuities, dividends, and shares of annuities payable by the Bank of Ireland out of the public revenue of the United Kingdom to any persons, corporations, or companies whatever, and in respect of all profits and gains of the said company chargeable under Schedule (D.) of this Act, and in respect of all other dividends, interests, annuities, pensions, and salaries payable by the said company, and also in respect of all other profits chargeable with duty under this Act and arising within any office or department under the management or control of the said governor and company; and the said last-mentioned Commissioners shall have, use, and exercise all the powers and authorities of Commissioners for

the bank, and on their profits.

the general purposes of this Act, so far as the same relate to the said duties to be assessed and charged by the said governor and directors, and shall make their assessments of the said duties, under and subject to the rules, regulations, and exemptions contained in the said first-mentioned Act in relation to the said duties respectively: Provided always, that the duties by this Act granted shall extend to and be payable upon all annuities, dividends, and share of annuities payable in Ireland out of the revenue of the United Kingdom to or for the use or benefit of any person, whether resident in Ireland or elsewhere.

16 & 17 Vict. c. 34, s. 12.

The clerks of the boards of guardians in Ireland to transmit to the Commissioners of Inland Revenue annually copies of the poor rates.

12. In order to the assessing of the duties chargeable under the respective Schedules (A.) and (B.) of this Act in Ireland, the clerk of the board of guardians of every poor law union in Ireland, or the person acting as such clerk, shall transmit to the Commissioners of Inland Revenue, at their head office in Dublin, true copies of the last rates made by such guardians for the relief of the poor in such union, and in every electoral division thereof, and the Collector General of Rates in the City of Dublin shall, in like manner transmit to the said Commissioners true copies of the last rates made for the relief of the destitute poor in the several electoral divisions or parts thereof in which he is by law authorized to make and declare such rates; and the Commissioners of Inland Revenue shall pay to the said clerk and collector respectively the cost and expense of making all such copies, not exceeding the rate of two shillings and sixpence for every one hundred ratings; and if any such clerk or any person acting as such clerk or such collector shall in any year neglect to transmit such copies in compliance with this enactment he shall for every such neglect forfeit the sum of fifty pounds.

17 & 18 Vict. c. 24, s. 5.

The Income Tax Act, 1854—

5. "And whereas by the said Act of the last session of parliament the clerk of the board of guardians of every poor law union in Ireland and the collector of general rates in the City of Dublin are respectively required, under a certain penalty for any neglect, to transmit to the Commissioners of Inland Revenue yearly within the period in the said Act mentioned true copies of the last rates made for the relief of the poor, and it is found by experience that the yearly transmission of such copies is for the most part unnecessary," be it enacted, that copies of the said rates shall be transmitted at such times only as they shall be required by the said Commissioners, and the penalty imposed by the said Act for any neglect to transmit such copies shall attach and be incurred only for any neglect to transmit the same in pursuance of any requisition of the said Commissioners.

16 & 17 Vict. c. 34, s. 13.

Duties under Schedules (A.) and (B.) in Ireland to be assessed according to the valuations under the Poor Relief Acts.

On whom assessments to be made.

The Income Tax Act, 1853—

13. The duties chargeable in Ireland under the respective Schedules (A.) and (B.) of this Act shall be charged and assessed by a poundage rate upon the annual value of all tenements and rateable hereditaments, according to the respective surveys and valuations made or to be made and from time to time in force for the purposes of the rates for the relief of the poor in Ireland; and the assessment of the said duties in Ireland chargeable under the said Schedule (A.) shall be made upon the landlord or immediate lessor of such tenements or rateable hereditaments, or if it shall appear to the Commissioners for Special Purposes to be necessary or proper, the said assessment shall be made upon such person as the rate for the relief of the poor shall be made upon in respect of any such property under the provisions of the Acts in that behalf; and the assessment of the said duties chargeable under the said Schedule (B.) shall be made upon the occupier of such property: Pro-

vided always, that if upon the appeal, as hereinafter mentioned (*a*), of any person deeming himself aggrieved by any such assessment, it shall be proved to the satisfaction of the Commissioners, assistant barrister, chairman, or recorder, by whom such appeal shall be heard or re-heard, as the case may be, that such assessment is made upon an amount or value exceeding the annual rent at which the property in respect whereof such assessment is made is worth to be let from year to year, the person hearing or re-hearing such appeal shall give relief by reducing and abating such assessment, and charging the duties on the amount of such annual value as aforesaid, notwithstanding that the same may be less than the annual value of the premises according to any such survey or valuation as aforesaid; and if such annual value at which such property is worth to be let as aforesaid shall exceed the actual rent payable yearly by the tenant or occupier of such premises, the landlord or immediate lessor shall be assessed under Schedule (A.) upon the amount of such actual rent only, and the tenant or occupier shall be assessed under the said Schedule (A.) on the difference between that amount and the amount of such last-mentioned annual value, subject nevertheless to any claim for exemption which the parties respectively may be entitled to: Provided also, that where any person receiving rent in respect of any hereditament in Ireland exempt from being rated to the relief of the poor is liable to be rated in respect of such rent to the extent of one-half the poundage of any poor rate, the said duties in Ireland chargeable under the said Schedule (A.) shall be charged and assessed upon such person by a poundage rate upon the full amount of such rent.

Persons receiving rent out of hereditaments in Ireland exempt from poor rates to be assessed to full amount of rent.

(*a*) See sects. 21, 22, *post*, p. 351.

14. Provided also, that if in any case it appear to the Commissioners of Inland Revenue that any such valuation as aforesaid for the time being in force is not correct (having reference to the principles according to which the same ought by law to have been made), with respect to all or any of the tenements or rateable hereditaments included therein, it shall be lawful for such Commissioners to direct the Commissioner of Valuation to make or cause to be made a re-valuation of the tenements or hereditaments with respect to which the said valuation is incorrect, and such Commissioner of Valuation shall forthwith, with all convenient speed, make or cause to be made such re-valuation accordingly, and sign the same and transmit it to the Commissioners of Inland Revenue; and such re-valuation shall be made according to the principles or rules according to which such incorrect valuation ought by law to have been made, and the duties chargeable under the said Schedules (A.) and (B.) shall, after such re-valuation, be charged and assessed according thereto: Provided that if any person assessed to the last-mentioned duties according to such re-valuation deem himself aggrieved thereby, it shall be lawful for him to appeal against such assessment on the ground of the incorrectness of such re-valuation, and upon such appeal it shall be lawful for the Commissioners, assistant barrister, chairman, or recorder hearing or re-hearing such appeal to alter as well such re-valuation as the assessment thereon, and make such order in relation thereto as they or he may think fit.

16 & 17 Vict. c. 34, s. 14.

Commissioners of Inland Revenue may direct re-valuations where existing valuations are incorrect.

15. In assessing in Ireland the duties chargeable under Schedule (A.) of this Act on the landlord or immediate lessor, in every case where the amount or annual value on which the assessment is made on him is not less than the annual rent reserved or payable to him for the premises in respect of which

16 & 17 Vict. c. 34, s. 15.

Allowance for poor rates chargeable on

the landlord's rent in Ireland.

the assessment is made, an allowance or abatement of a proportionate part of the duty shall be made in respect of the amount of the poor rates which such landlord or lessor shall have paid or borne for the same premises in the year preceding; and if the amount or annual value on which such assessment as aforesaid is made shall be less than the said rent, then such allowance or abatement as aforesaid shall be made only in respect of so much as the amount of the said poor rate added to the sum on which the assessment is made shall exceed the actual rent.

16 & 17 Vict. c. 34, s. 16. By whom assessments under Schedules (A.) and (B.) in Ireland are to be made and collected.

16. All assessments of the said duties under the said Schedules (A.) and (B.), in Ireland, shall be made by surveyors of taxes or other officers of Inland Revenue acting in that behalf under the directions of the Commissioners of Inland Revenue; and every such assessment shall be made for and comprise the respective premises situate within a union, or an electoral division, or such other district as the said last-mentioned Commissioners shall direct: and the same shall be signed by two of the Commissioners for Special Purposes, who shall cause duplicates thereof, together with their warrants for the collecting and levying of the sums thereby assessed, to be delivered to such person or persons as they shall appoint to be collectors of such assessments.

16 & 17 Vict. c. 34, s. 17. How assessments in Ireland under Schedules (A.) and (B.) are to be collected, levied, and recovered.

17. Every such assessment in Ireland of the duties under the said Schedules (A.) and (B.) of this Act may be collected, levied, and recovered by distress by the person appointed in manner aforesaid to be collector thereof from the person assessed, or from the occupier of the property assessed, or may be levied upon the particular premises in respect of which the assessment is made; and all goods and chattels, to whomsoever the same shall belong, found on such premises in respect of which any assessment is made of the said duties under this Act, shall be liable to be distrained and sold for the recovery of the said duties; or such duties as aforesaid, or any arrears thereof, may be levied and recovered in the same manner as other duties assessed in Ireland under this Act may be levied and recovered: Provided always, that the duty assessed under the said Schedule (A.) upon or in respect of any tenement or hereditament may be collected, recovered, and levied by the said collector from the landlord or immediate lessor of the premises assessed, whether he be named in the assessment or not; and to that end such collector is hereby authorized and empowered to use, exercise, and put in force against such landlord or immediate lessor all or any of the remedies, ways, and means provided by an Act of the first and second years of her Majesty, chapter fifty-six, and an Act of the sixth and seventh years of her Majesty, chapter ninety-two, or either of the said Acts, by which any rate made for the relief of the destitute poor in Ireland may be collected, recovered, or levied from any immediate lessor primarily liable to the payment of rates for premises the occupier of which is exempted from such payment: Provided also, that where any proceeding for the recovery of any such rate is by law required to be had or taken in the name of the guardians of a poor law union, or by the direction or with the consent of such guardians or of the Poor Law Commissioners, or by or with any other direction or consent, the like proceeding for the recovery of the said duties under this Act may be had and taken by and in the name of such collector as aforesaid, and without any such direction or consent; provided that where any assessment under the said Schedule (A.) shall have been made upon the tenant or occupier of the premises assessed, the landlord or immediate lessor shall be liable to be proceeded

against in manner aforesaid only in default of payment of such assessment by the said tenant or occupier, and for the recovery of so much only of the duty assessed as shall be chargeable in respect of the rent payable yearly to such landlord or immediate lessor for the premises assessed.

16 & 17 Vict. c. 34, s. 18.

Landlords in Ireland entitled to claim return of duty paid by them in respect of rent lost by bankruptcy or absconding of tenant.

18. When any landlord or immediate lessor of any tenement or hereditament in Ireland assessed to the duty chargeable under Schedule (A.) of this Act shall have paid such duty, and shall afterwards prove to the satisfaction of the Commissioners for Special Purposes that the rent due or payable to him in respect of such tenement or hereditament for the period for which the said duty was assessed, or any portion of such rent, has been wholly and irrecoverably lost by reason of the bankruptcy, insolvency, or absconding of the tenant or occupier by whom such rent was payable, or by the fraudulent assignment or removal of his goods, or by reason of such tenement or hereditament being left waste and unoccupied, then and in such case the said landlord or lessor shall be entitled to be repaid such proportion of the said duty as he shall have paid in respect of the rent so lost; and the said Commissioners shall order and direct the repayment of such proportion of duty in like manner as by the said Act of the fifth and sixth years of her Majesty, chapter thirty-five, they are authorized to order and direct the repayment of duty in other cases, provided that such landlord or lessor shall make his claim for such repayment to the said Commissioners within the period of six calendar months after the expiration of the year for which the said duty was assessed.

16 & 17 Vict. c. 34, s. 19.

Persons having the custody of valuations under the Poor Relief Acts in Ireland to produce same to officers under this Act, and to permit copies to be taken.

Penalty for refusal, &c.

19. Every person having in his custody or possession any survey or valuation on which the rates for any union or electoral division shall be assessed or made, or any rate or assessment made under the provisions of the Acts for the relief of the poor in Ireland, or any of them, shall, at the request of any inspector, surveyor, or other officer acting in the execution of this Act in Ireland, produce and show every such survey, valuation, rate, and assessment to such inspector, surveyor, or other officer, and permit him to inspect the same, and to take copies thereof or extracts therefrom without paying anything for the same; and in case the person having the custody or possession of any such survey, valuation, rate, or assessment shall, on any such request as aforesaid, refuse to produce the same to such inspector, surveyor, or other officer, or to permit him to inspect the same, or to take copies thereof, or such extracts as he may think fit to take therefrom, such person shall, for every such refusal, forfeit the sum of fifty pounds.

16 & 17 Vict. c. 34, s. 20.

By whom assessments under Schedules (D.) and (E.) to be made in Ireland.

20. The assessments of the duties chargeable in Ireland under the several Schedules (D.) and (E.) of this Act shall be made by such surveyors of taxes, or other officers of Inland Revenue as the Commissioners of Inland Revenue shall appoint in that behalf; and such assessments shall be allowed and signed by the Commissioners for Special Purposes, who shall also appoint the times and places for hearing appeals against the same as hereinafter mentioned, and shall also cause due notice of every such assessment, and of the amount thereof, and of the time and place appointed for hearing any appeal against the same, to be given by some officer of Inland Revenue to every person so assessed.

16 & 17 Vict. c. 34, s. 21.

Appeals in Ireland to be heard and determined

21. All appeals against assessments under this Act in Ireland shall be heard and determined by the said Commissioners for Special Purposes, or any two of them, whose determination on any such appeal shall be final and conclusive, unless the person charged by the assessment shall think himself aggrieved by such determination, and shall require that such appeal shall be

by the Commissioners for Special Purposes.

re-heard as hereinafter provided; and where any person charged by any such assessment as aforesaid, and to whom notice thereof and of the time and place appointed for hearing any appeal against the same shall be given as hereinbefore directed, shall neglect to appeal accordingly, such assessment shall also be conclusive, and such person shall be precluded from afterwards disputing or questioning the same.

16 & 17 Vict. c. 34, s. 22.

Persons assessed aggrieved by determination of Commissioners may require appeal to be re-heard by an assistant barrister, &c.

22. If any person charged by an assessment in Ireland shall think himself aggrieved by the determination of the said Commissioners for Special Purposes in any such appeal as aforesaid, it shall be lawful for him, on giving notice in writing to the inspector or surveyor within ten days after such determination, to require that such appeal shall be re-heard by the assistant barrister for the county or riding where such person shall have been assessed, or in case he shall have been assessed in the county of Dublin, by the chairman of the sessions of the peace of such county, or in case such person shall have been assessed in the city of Dublin, by the recorder of such city, or in case such person shall have been assessed in the borough of Cork, by the recorder of such borough; and where any such appeal shall be so required to be re-heard, any statement or schedule in the possession of the said Commissioners for Special Purposes, returned to them for the purpose of such appeal, shall be transmitted by them to the assistant barrister, chairman, or recorder (as the case may require); and such assistant barrister, chairman, or recorder shall with all convenient speed re-hear and determine such appeal, and shall take the oath or affirmation required to be taken by a Commissioner for Special Purposes (*a*), and shall and may have and exercise the same powers and authorities in relation to the assessment appealed against, and the determination of the matter thereof and in relation to all matters consequent thereon, as any two or more Commissioners for Special Purposes might have and exercise, and his determination thereon shall be final and conclusive.

(*a*) See *ante*, p. 38.

16 & 17 Vict. c. 34, s. 23.

After hearing appeals in Ireland, Commissioners to cause duplicates of assessments to be delivered to collectors with warrants to collect the same.

23. After the respective times for hearing appeals against such assessments as aforesaid in Ireland, then as to all assessments against which appeals shall have been heard and determined, leaving any sum assessed or charged by any such assessment, and as to all assessments against which no appeal shall have been made, the Commissioners for Special Purposes shall cause duplicates thereof, together with warrants under the hands and seals of two of the said last-mentioned Commissioners, to be delivered to such officers of Inland Revenue or other persons as shall be named in such warrants respectively, appointing such persons to be collectors of the duties and sums of money assessed and charged in such duplicates respectively, and requiring and empowering such collectors respectively to collect, demand, levy, and recover all such duties and sums of money.

16 & 17 Vict. c. 34, s. 24.

Commissioners for Special Purposes, inspectors and surveyors of taxes, and other officers to exercise the like powers in

24. The Commissioners for Special Purposes acting in the execution of this Act in Ireland in relation to the allowing or signing of any such assessment as aforesaid, and to the hearing and determining of any appeal against the same, and to the making and signing of any duplicate thereof and any warrant for collecting and levying the duties and sums of money charged or assessed thereby, and also all inspectors and surveyors of taxes, and other officers of Inland Revenue acting in Ireland in relation to the making of any such assessment or to the assessing or charging of any person therein or thereby, and also all persons named or appointed by the said Commissioners

to be respectively collectors of the said duties and sums of money in relation to the collecting, levying, distraining for, or otherwise recovering of the same, shall respectively be, and are hereby invested with, and shall have, use, and exercise all such and the like powers and authorities as any Commissioners, either for general or special purposes, or any additional Commissioners, and as any inspectors, surveyors, collectors, or other officers respectively have or are invested with, or can or may use or exercise in England in relation to the making or allowing of any assessment of duties under this Act, or to the assessing or charging of any person to such duties, or to the hearing or determining of any appeal against any such assessment, or to the collecting, levying, distraining for, or otherwise recovering of any such duties, so far as such powers and authorities or any of them are applicable or may be adapted to the performance of similar acts, matters, and things in Ireland.

executing this Act in Ireland as Commissioners, inspectors, or officers may exercise in similar cases in England.

25. Nothing herein contained shall be construed to make any union, electoral division, or place in Ireland in which any assessment of any duties granted under this Act shall be made, answerable for the amount of duties charged in such place, nor for any neglect or default of the collector in demanding or collecting same, nor shall any re-assessment be made in Ireland upon any such place for any arrears or loss occasioned by any such neglect or default.

16 & 17 Vict. c. 34, s. 25. Unions, &c. in Ireland not to be responsible for neglect or default of collectors.

29. Provided always, that in computing the income of any person for the purposes of this Act, such computation, so far as regards any rent derived from tenements or hereditaments in Ireland chargeable under Schedule (A.), shall be made after allowing for the amount of poor rates chargeable on such rent by way of deduction or otherwise.

16 & 16 Vict. c. 34, s. 29. In computing income from rent in Ireland poor rates to be deducted.

31. In Ireland all claims of exemption by reason of the income of any person being under one hundred pounds a year, and all claims for relief or reduction of assessment on the ground of such income being under one hundred and fifty pounds a year, and all claims for return or repayment of any duties on either of the grounds aforesaid, or under any other of the provisions of this Act or of the Acts herein mentioned or referred to, shall be made in such manner and form as the Commissioners of Inland Revenue shall direct and provide in that behalf; and all such claims shall be made to and shall be adjudicated and finally determined by the Commissioners for Special Purposes, or any two of them; provided that there shall be a like appeal as regards claims for exemptions in Ireland to the assistant barrister, chairman, or recorder (as the case may require) as is hereinbefore contained (*a*) in reference to persons charged by an assessment and feeling aggrieved thereby.

16 & 17 Vict. c. 34, s. 31. Claims of exemption or for reduction of assessment or repayment of duty in Ireland to be made to the Commissioners for Special Purposes.

(*a*) See sect. 22, *ante*, p. 352.

33. And whereas tithe rentcharge belonging to or held by ecclesiastical persons or bodies in Ireland is liable, in many cases, to heavy charges in respect of the tax payable to the Ecclesiastical Commissioners for Ireland, poor rates, the repayment of instalments for the building or repairing of glebe houses, or other charges: And whereas the deductions in respect of income tax under the provisions of this Act or the before-recited Act of the fifth and sixth years of her Majesty's reign, chapter thirty-five, made by any person paying tithe rentcharge to any ecclesiastical person or body entitled to receive the same, would under the provisions of this and the said Act, be the income tax upon the gross amount of such rentcharge; and it is

16 & 17 Vict. c. 34, s. 33. Allowances to be made in respect of certain burdens on tithe rentcharges in Ireland.

expedient and just that such ecclesiastical persons or bodies should have the benefit of the allowances hereinafter mentioned out of such gross income, and of a proportionate remission of income tax: It shall be lawful for any ecclesiastical person or body to make application to the Commissioners for Special Purposes, setting forth the deductions or charges to which his income has been subjected during the preceding year in respect of the ecclesiastical tax aforesaid, poor rates, and the other charges and matters of the like nature and description as those in respect of which the Ecclesiastical Commissioners are directed to make allowances or deductions in estimating the value of a benefice or other ecclesiastical property, with a view to its taxation, under the provisions of an Act passed in the third and fourth years of King William the Fourth, chapter thirty-seven; and such person or body, on proof to the satisfaction of the Commissioners for Special Purposes that the income of such ecclesiastical person or body has been actually subjected to such charges or deductions, shall be entitled to have repaid to him by the Commissioners of Inland Revenue the difference between the amount of income tax calculated on the gross income of such ecclesiastical person or body and the amount to which such person or body would have been liable supposing the income tax to have been assessed upon his income after deducting such charges as aforesaid.

16 & 17 Vict. c. 34, s. 41. Deductions to be made from the net payment after allowing for poor rate in Ireland.

41. Provided always, that whenever any person liable to the said duties chargeable in Ireland under the said Schedule (A.) shall be entitled to retain a proportionate amount of such duties from any annual payment from which he is now by law entitled to deduct any sum on account of poor rates, he shall be entitled to retain such proportionate amount only upon the net sum payable by him after the allowance for poor rates.

16 & 17 Vict. c. 34, s. 43. No action of ejectment in Ireland to be defeated on ground of deductions reducing the amount due under a year's rent.

43. No action of ejectment for non-payment of rent in Ireland shall be defeated on the ground that the person liable to pay such rent is entitled, under the provisions of this Act or any Act incorporated therewith, to a deduction which would reduce the amount due by him under a year's rent.

16 & 17 Vict. c. 34, s. 58. Collectors in Ireland to have such poundage or other remuneration as the Treasury may order.

58. The several collectors of the duties granted by this Act in Ireland shall have and receive such rate of poundage on the money of the said duties which they shall respectively collect and pay to the proper officer for receipt, or such other reasonable remuneration for their service, pains, and labour respectively in executing this Act, as the Treasury shall by any warrant from time to time order and direct in that behalf.

The Taxes Management Act, 1880—

Administration of Oaths in Ireland.

43 & 44 Vict. c. 19, s. 24. Justices in Ireland may administer oaths.

24. In Ireland any one of her Majesty's justices of the peace may administer all oaths or affirmations required or allowed to be taken by this Act or by the Income Tax Acts before a Commissioner or justice by any officer or person, in any matter touching the execution of this Act or the said Acts.

Appendix V.

THE INCOME TAX ACT, 1842

(5 & 6 Vict. c. 35).

An Act for granting to her Majesty Duties on Profits arising from Property, Professions, Trades, and Offices [[1]*until the 6th day of April*, 1845]. [22nd June, 1842.]

Most gracious Sovereign,

We, your Majesty's most dutiful and loyal subjects, the commons of the United Kingdom of Great Britain and Ireland in Parliament assembled, towards raising the necessary supplies to defray your Majesty's public expenses, and making an addition to the public revenue, have freely and voluntarily resolved to give and grant unto your Majesty the several rates and duties hereinafter mentioned; and do therefore most humbly beseech your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That [2]from and after the 5th day of April, 1842, there shall be charged, raised, levied, collected, and paid, unto and for the use of her Majesty, her heirs and successors, during the term hereinafter limited, the several rates and duties mentioned in the several Schedules contained in this Act, and marked respectively (A.), (B.), (C.), (D.), and (E.); (that is to say,)

Duties to be levied under this Act.

Schedule (A.)

For all lands, tenements, and hereditaments, or heritages in Great Britain there shall be charged yearly, in respect of the property thereof, for every twenty shillings of the annual value thereof, the sum of sevenpence:

Schedule (A.).

Schedule (B.)

For all lands, tenements, and hereditaments in England there shall be charged yearly, in respect of the occupation thereof, for every twenty shillings of the annual value thereof, the sum of threepence halfpenny:

Schedule (B.).

For all lands, tenements, and heritages in Scotland there shall be charged yearly, in respect of the occupation thereof, for every twenty shillings of the annual value thereof, the sum of twopence halfpenny:

[1] The words in brackets are repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

[2] Sect. 1 is repealed by Statute Law Revision (No. 2) Act, 1874 (37-8 V. c. 96).

SCHEDULE (C.)

Schedule (C.). Upon all profits arising from annuities, dividends and shares of annuities, payable to any person, body politic or corporate, company or society, whether corporate or not corporate, out of any public revenue, there shall be charged yearly, for every twenty shillings of the annual amount thereof, the sum of sevenpence, without deduction:

SCHEDULE (D.)

Schedule (D.). Upon the annual profits or gains arising or accruing to any person residing in Great Britain from any kind of property whatever, whether situate in Great Britain or elsewhere, there shall be charged yearly, for every twenty shillings of the amount of such profits or gains, the sum of sevenpence; and upon the annual profits or gains arising or accruing to any person residing in Great Britain, from any profession, trade, employment, or vocation, whether the same shall be respectively carried on in Great Britain or elsewhere, there shall be charged yearly, for every twenty shillings of the amount of such profits or gains, the sum of sevenpence:

And upon the annual profits or gains arising or accruing to any person whatever, whether a subject of her Majesty or not, although not resident within Great Britain, from any property whatever in Great Britain, or any profession, trade, employment, or vocation exercised within Great Britain, there shall be charged yearly, for every twenty shillings of the amount of such profits or gains, the sum of sevenpence:

SCHEDULE (E.)

Schedule (E.). Upon every public office or employment of profit, and upon every annuity, pension, or stipend payable by her Majesty or out of the public revenue of the United Kingdom, except annuities before charged to the duties in Schedule (C.), for every twenty shillings of the annual amount thereof respectively, there shall be charged yearly the sum of sevenpence.

Duties on fractional parts.

2.[1] And be it enacted, that upon every fractional part of twenty shillings of the annual profits or gains aforesaid the like proportion of duty, at the rate before directed, shall be charged; provided no rate or duty shall be charged of a lower denomination than one penny.

The duties to be under the management of the Commissioners of Stamps and Taxes, and to be assessed and raised under the regulations of the Acts relating to the assessed taxes.

3. [[2]And be it enacted, that the duties by this Act granted shall be under the direction and management of the Commissioners of Stamps and Taxes for the time being, who are hereby empowered to employ all such officers or other persons, and to do all such other acts and things, as may be deemed necessary or expedient for the raising, collecting, receiving and accounting for the said duties, and for putting this Act into execution, in the like and in as full and ample a manner as they are authorized to do with relation to any other duties under their care and management;] and that the said duties hereby granted arising in England[3] shall be assessed, raised, levied, and collected under the regulations of [[3]an Act passed in the forty-third year of the reign of King George the third, intituled "An Act for con-

43 G. 3, c. 99.

[1] Sect. 2 is repealed by Statute Law Revision (No. 2) Act, 1874 (37-8 V. c. 96).

[2] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1874 (37-8 V. c. 96).

[3] The part in brackets is replaced by the Taxes Management Act, 1880 (43-4 V. c. 19), by sect. 7 of that Act, and the word "England" becomes "the United Kingdom," Ireland being added by Income Tax Act, 1853 (16-7 V. c. 34).

solidating certain of the provisions contained in any Act or Acts relating to the Duties under the Management of the Commissioners for the affairs of Taxes, and for amending the same," and other Acts relating thereto, or for explaining, altering, or amending the same; and the said duties arising in Scotland shall be assessed, raised, levied, and collected under the regulations of an Act passed in the same session of Parliament, intituled, "An Act for consolidating certain of the Provisions contained in any Act or Acts relating to the Duties under the Management of the Commissioners for the affairs of Taxes, and for amending the said Acts, so far as the same relate to that part of Great Britain called Scotland," and other Acts relating thereto, or for explaining, altering, or amending the same;] and all the powers, authorities, methods, rules, directions, penalties, clauses, matters, and things now in force, contained in or enacted by the [[1]several Acts before recited or referred to] or any other Acts relating to the duties of assessed taxes [[1]and also all the powers, authorities, rules, regulations, directions, penalties, clauses, matters, and things contained in or enacted by two several Acts of Parliament, passed respectively in the forty-eighth and fiftieth years of the reign of King George the third, and intituled, respectively, "An Act to amend the Acts relating to the Duties of Assessed Taxes, and of the Tax upon the Profits of Property, Professions, Trades, and Offices, and to regulate the Assessment and Collection of the same," and "An Act to regulate the manner of making Surcharges of the Duties of Assessed Taxes, and of the Tax upon Profits arising from Property, Professions, Trades, and Offices, and for amending the Acts relating to the said duties respectively," whether such last-mentioned powers, authorities, rules, regulations, directions, penalties, clauses, matters, and things shall be in force at the time of the passing of this Act or not, and notwithstanding that the same or any part thereof may have expired or been repealed] shall severally and respectively be and become in full force and effect with respect to the duties hereby granted, and shall be severally and respectively duly observed, applied, practised and put in execution throughout the respective parts of Great Britain,[2] for raising, levying, collecting, receiving, accounting for, and securing of the said duties hereby granted, and for auditing the accounts thereof, and otherwise relating thereto, [[3]so far as the same shall not be superseded by and shall be consistent with the express provisions of this Act,] as fully and effectually, to all intents and purposes, as if the same powers, authorities, methods, rules, directions, penalties, clauses, matters, and things were particularly repeated and re-enacted in the body of this Act with reference to the said duties hereby granted, and respectively applied to such parts of Great Britain[2] as aforesaid; and all and every the regulations of such Acts (except as aforesaid) shall be applied, construed, deemed, and taken to refer to this Act, and to the duties hereby granted, in like manner as if the same had been enacted therein.

43 G. 3, c. 150.

Powers and provisions of recited Acts and other Acts to be applied to the duties hereby granted.

48 G. 3, c. 141.

4. And whereas it is expedient to appoint Commissioners for the General Purposes of this Act from and amongst the persons appointed Commissioners for the execution of an Act passed in the thirty-eighth year of the reign of

Commissioners of Land Tax at district

[1] The part in brackets is replaced by the Taxes Management Act, 1880 (43-4 V. c. 19), by sect. 7 of that Act.

[2] Now the United Kingdom, Ireland being added by the Income Tax Act, 1853 (16-7 V. c. 34).

[3] The part in brackets is probably obsolete, see p. 40.

meetings to appoint Commissioners for the General Purposes of this Act.

King George the third, intituled, "An Act for granting an aid to his Majesty by a Land Tax, to be raised in Great Britain for the Service of the year one thousand seven hundred and ninety-eight," or from and amongst the persons appointed Commissioners for the execution of the said Act by any subsequent Act of Parliament passed or to be passed, to act in the execution of this Act, so far as relates to the powers hereby vested in such

38 G. 3, c. 5.

Commissioners; be it enacted, that the several persons appointed or to be appointed Commissioners for putting in execution the said Land Tax Act in the respective parts of Great Britain[1] therein mentioned, being respectively qualified to act as Commissioners in the execution of the said Land Tax Act, shall meet within the county, riding, shire, or stewartry, or within each hundred, rape, lathe, or wapentake of the county, riding, shire, or stewartry for which they are or shall be respectively appointed Commissioners of the said Land Tax Act, or within such other division of the said county, riding, shire, or stewartry as the Commissioners of [2Stamps and Taxes] shall direct, and also within each city, borough, cinque port, liberty, franchise, town, and place for which separate Commissioners have been appointed with exclusive jurisdiction for putting in execution the said Land Tax Act within the same, which meeting shall be convened from time to time by the Commissioners of [2Stamps and Taxes] when and as they shall deem necessary, by notice inserted in the "London Gazette" and "Edinburgh Gazette" for England and Scotland respectively, and shall be held at such time and place as shall be appointed by such notice; and at every such meeting the said Commissioners of the Land Tax Act, or the major part of them then present, shall choose and set down in writing the names of such of the Commissioners appointed as aforesaid who shall respectively be qualified as hereinafter is required, and who shall be fit and proper to act as Commissioners for the General Purposes of this Act in such county, riding, shire, or stewartry aforesaid, and in each and every district within each respective hundred, rape, lathe, wapentake, or other division aforesaid, and within each city, borough, cinque port, liberty, franchise, town, and place aforesaid, observing always in the execution of this Act the same limits which shall have been or may be settled for the districts under the Acts relating to the duties of assessed taxes; and the names of such persons who shall be so chosen shall be set down in the order in which the major part of the Commissioners then present shall judge fit they should respectively be appointed Commissioners in their respective districts; and any seven, or any less number than seven, not being in any case less than three, of the persons so set down, and in the order in which they shall be so set down in such list, shall be Commissioners for the General Purposes of this Act, and of the duties granted as aforesaid, and they are hereby required to take upon themselves the execution of this Act, and of the said duties, as such Commissioners for General Purposes;

Manner of choosing Commissioners;

and any seven, or any less number than seven, not being in any case less than three, of the persons so set down next in order in the list of names before mentioned, shall be Commissioners to supply vacancies as the same may arise in the manner hereinafter mentioned: Provided always, that if at any such meeting as aforesaid the Commissioners shall not find amongst the Commissioners appointed for executing the said Land Tax Act, and set down

and supplying vacancies.

In want of Land Tax Commissioners, other

[1] Now the United Kingdom, Ireland being added by the Income Tax Act, 1853 (16-7 V. c. 34).

[2] Now Inland Revenue, see the Income Tax Act, 1853 (16-7 V. c. 34), s. 9.

in manner aforesaid, the names of seven persons to act and seven others to supply vacancies in each such district, it shall be lawful for them to appoint any persons residing within such district who shall respectively be qualified as hereinafter is required, and who in their judgment shall be fit and proper, to be Commissioners for the General Purposes of this Act, until the number of seven in each such list shall be completed, although such persons shall not have been appointed to act as Commissioners in the execution of the said Land Tax Act: Provided also, that if at such meeting the Commissioners shall not find and set down fourteen persons of the descriptions before mentioned to act as Commissioners and to supply vacancies in each such district, it shall be lawful for them to select such number of persons as shall be requisite from the persons acting as Commissioners for executing the said Land Tax Act in or for any adjoining or neighbouring district of the same county, riding, division, shire, stewartry, city, town, or place, in order that there shall be no failure in the execution of this Act; and the names of such respective persons who shall have been so chosen as aforesaid shall be transmitted to the Head[1] Office for Stamps and Taxes in England and Scotland respectively in the order in which they shall have been set down in such lists: Provided always, that where seven persons, qualified as hereinafter is required, shall be chosen to act as Commissioners for any district as aforesaid, no other person shall interfere as a Commissioner in the execution of this Act so long as such seven persons shall continue to act, except in the cases hereinafter mentioned.

fit persons residing in the district may be named;

or from adjoining districts.

Where seven persons shall be chosen no others to act.

5. [[2]And be it enacted, that] within and for each of the cities and towns hereinafter mentioned, (*videlicet*,) London, Bristol, Exeter, Kingston-upon-Hull, Newcastle-upon-Tyne, Norwich, Birmingham, Liverpool, Leeds, Manchester, King's Lynn, and Great Yarmouth, it shall be lawful for the persons hereinafter mentioned to choose Commissioners, and persons to supply their vacancies, to act together with the persons to be chosen or appointed as before directed; and that in and for the City of London two Commissioners, and two to supply their vacancies, shall be named by the mayor and aldermen of London out of eight persons, four of whom shall be aldermen, to be returned to them by the common council; two other Commissioners, and two to supply their vacancies, by [[3]the Governor and Directors of] the Bank of England; one other Commissioner, and one other to supply his vacancy, by each of the companies hereinafter mentioned; (*videlicet*,) [[4]the Directors of the East India Company, the Governor and Directors of the South Sea Company,] the Governor and Directors of the Royal Exchange Assurance Company, the Governor and Directors of the London Assurance Company, the Directors for conducting and managing the affairs of the East and West India Dock Company, and the Directors for conducting and managing the London Dock Company and the Saint Katherine Dock Company, respectively, for the time being; and that it shall be lawful for the magistrates and justices of the peace acting in and for the

Within certain cities and towns other Commissioners may be chosen to act with those chosen by the Land Tax Commissioners.

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[1] Now called the Chief Office of Inland Revenue.

[2] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

[3] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1890 (53-4 V. c. 51).

[4] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1874 (37-8 V. c. 96).

City of Norwich to choose eight persons to be Commissioners, and eight persons to supply their vacancies, not more than four of the said eight Commissioners, and not more than four of the said eight persons to supply their vacancies, to be chosen from out of the said magistrates and justices, and the remaining four Commissioners, and four persons to supply their vacancies, to be chosen from the inhabitants of the said city; and in and for each of the other cities and towns before mentioned it shall be lawful for the magistrates and justices of the peace acting in and for the said cities and towns respectively, together with the justices of the peace acting in and for the county, riding, or division wherein the same respectively are situate, to choose eight persons to be Commissioners, and eight persons to supply their vacancies as herein is mentioned; and the persons so to be chosen by the Land Tax Commissioners as aforesaid, together with the other persons respectively to be chosen as herein is particularly directed, shall be Commissioners for the purposes of this Act, and to supply their vacancies, as the same may arise, within and for the several districts in which such cities and towns respectively shall be situate, or which shall be formed by such cities and towns respectively, and for such other places which have usually been assessed in the same district with such cities and towns respectively towards the aid by a land tax; and the names of all persons so chosen as last aforesaid shall be returned to the Commissioners of [[1]Stamps and Taxes].

Where sufficient Commissioners are not chosen for cities and towns the Commissioners for the county may be chosen.

6. Provided always, [[2]and be it enacted,] that in case there shall not be a sufficient number of Commissioners chosen or appointed for General Purposes as aforesaid, or to supply vacancies, capable of acting according to the qualification required by this Act for any city, borough, town, or place, then and in every such case any person qualified to act for the county at large, or riding, [[3]shire, or stewartry], in which or adjoining which such city, borough, town, or place shall be situate, may be chosen to act as a Commissioner for such city, borough, town, or place: Provided also, that any person residing in any county, riding, division, [[3]shire, stewartry] city, town, or place where a Commissioner shall be wanting, and qualified as hereinafter mentioned, who shall be willing to act as a Commissioner for General Purposes as aforesaid, in any district where a Commissioner shall be wanting, may be chosen in manner aforesaid to be such Commissioner, although such person shall not have been appointed to act in the execution of the said Land Tax Act; anything hereinbefore contained to the contrary notwithstanding.

Power to choose persons duly qualified, although not named Commissioners of Land Tax.

How vacancies among such Commissioners are to be supplied.

7. [[2]And be it enacted, that] when any Commissioner for General Purposes shall die, or decline to act, or having begun to act shall decline to act any further therein, the remaining Commissioners shall choose one or more of the persons on the list to supply vacancies, who shall be appointed in the place of the Commissioner so refusing or declining to act, or dying, provided the person so to be appointed to supply such vacancy shall have been chosen in the same manner as the person so refusing or declining to act, or dying; and the several Commissioners of Land Tax shall at such their meetings, convened in manner aforesaid, and the several persons authorized

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[1] Now Inland Revenue, see the Income Tax Act, 1853 (16-7 V. c. 34), s. 9.

[2] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

[3] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1890 (53-4 V. c. 51).

to appoint Commissioners for the several cities and towns aforesaid shall, on notice thereof from the clerk to the acting Commissioners for the same cities and towns respectively, as often as occasion shall require, select and add new names to the persons before chosen to supply vacancies, who shall respectively be Commissioners for General Purposes, as and when such vacancies shall happen: Provided always, that if the list for supplying vacancies to be made and renewed as aforesaid shall at any time be defective, so that the due number of Commissioners cannot be supplied therefrom, the same shall be filled up and renewed from time to time by the acting Commissioners for General Purposes in the district where such failure shall have happened.

Commissioners of Land Tax Act to execute the Act in default of appointing other Commissioners, or on neglect of Commissioners appointed under this Act;

8. [[1]And be it enacted, that] if in any district there shall be a neglect in appointing Commissioners for General Purposes as hereby is directed, or the Commissioners so appointed shall neglect or refuse to act, or having begun to act shall decline to act further therein, it shall be lawful for the Commissioners appointed to execute the said Land Tax Act, being respectively qualified as directed by this Act, and they and every of them, not in any case exceeding the number of seven, on notice of such neglect and want of appointment, given to their clerk, by any inspector or surveyor of taxes duly authorized to give such notice by the Commissioners of [[2]Stamps and Taxes,] shall and they are hereby strictly enjoined and required to take upon themselves forthwith the execution of this Act, and to do and execute all matters and things which Commissioners chosen in pursuance of this Act are hereby required and empowered to do; and if in any district there shall be a want of such last-mentioned Commissioners, the Commissioners of any adjoining district in the same county, riding, or division, [[3]shire or stewartry,] being respectively qualified as directed by this Act, shall, on like notice as aforesaid, execute this Act as such Commissioners, by themselves, or in concurrence with any persons willing to act as Commissioners of the district where this Act shall require to be executed; and if the persons aforesaid to whom such notice shall have been given shall not take upon themselves the execution of this Act, within ten days next after such notice given, or shall not proceed therein with due diligence, then and in every such case it shall be lawful for the Commissioners for Special Purposes, to be appointed under the authority of this Act, to execute this Act in such district in all matters and things hereby directed to be done by Commissioners for General Purposes: Provided always, that where Commissioners willing to act in each district shall not be returned to the [4]Head Office for Stamps and Taxes in England and Scotland respectively as aforesaid, then and in such case it shall be lawful for the said Commissioners of [[2]Stamps and Taxes] to cause such notice as aforesaid to be given to two or more of the persons on whom the right of executing this Act shall devolve in pursuance of the directions of this Act before mentioned.

and Commissioners for Special Purposes on neglect of Land Tax Commissioners.

Commissioners may appoint a clerk and assistant.

9. [[1]And be it enacted, that] the Commissioners to be appointed for General Purposes in manner aforesaid shall appoint a clerk, and if necessary an assistant clerk, for the duties to be assessed by them in each district, who shall execute their office according to the regulations of this Act and the

[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).
[2] Now Inland Revenue, see the Income Tax Act, 1853 (16-7 V. c. 34), s. 9.
[3] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1890 (53-4 V. c. 51).
[4] Now called the Chief Office of Inland Revenue.

Acts herein respectively mentioned or referred to; and every such clerk and assistant shall act as such, as well in all matters and things to be done by, under, and before the respective Commissioners for General Purposes, as by, under, and before the respective additional Commissioners hereinafter mentioned in the respective districts; provided that no more than one clerk's assistant shall be appointed for any district without the approbation of the Commissioners of [1Stamps and Taxes,] on a statement made to them by the Commissioners for General Purposes of the necessity thereof in consideration of the extent or population of the district; and if any clerk or clerk's assistant appointed under the authority of this Act, who shall have taken the oath hereinafter required, shall wilfully obstruct or delay the execution of this Act, or shall negligently conduct or wilfully misconduct himself in the execution of this Act, he shall forfeit the sum of one hundred pounds, and shall be dismissed from the said office, and be rendered incapable of again acting as clerk or clerk's assistant in the execution of this Act or any other Act for granting duties under the management of the Commissioners of [1Stamps and Taxes].

Penalty on clerk or assistant for misconduct.

Qualification of Commissioners for districts or divisions of counties and for certain cities and towns in England.

10. [2And be it enacted, that] no person herein required to be qualified in respect of estate shall be capable of acting as a Commissioner for General Purposes in the execution of this Act for any district or division of any county at large within England (the county of Monmouth and the dominion of Wales excepted), or of any of the ridings of the county of York, or of the county or divisions of Lincoln, or in or of any of the several cities and towns of London, Westminster, Bristol, Exeter, Kingston-upon-Hull, Newcastle-upon-Tyne, Norwich, Birmingham, Liverpool, Leeds, Manchester, King's Lynn, and Great Yarmouth, unless such person be seised or possessed of lands, tenements, or hereditaments in Great Britain of the value of two hundred pounds per annum or more, of his own estate, being freehold or copyhold, or leasehold for a term whereof not less than seven years are unexpired, over and above all ground rents, incumbrances, and reservations payable out of the same respectively, or unless such person shall be possessed of personal estate of the value of five thousand pounds, or a personal estate, or an interest therein, producing an annual income of two hundred pounds, or of lands, tenements, or hereditaments, and personal estate, or an interest therein, being together of the annual value of two hundred pounds, estimating in every such case one hundred pounds personal estate as equivalent to four pounds per annum, and an interest from personal estate of four pounds per annum as equivalent to one hundred pounds personal estate, or unless such person be the eldest son of some person who shall be seised or possessed of a like estate of thrice the value required as the qualification of a Commissioner, in right of his own estate, for such county at large, riding, division, or city.

Qualification for the county of Monmouth, the counties in Wales, and for the cities, towns, or

11. [2And be it enacted, that] no person herein required to be qualified in respect of estate shall be capable of acting as a Commissioner for General Purposes in execution of this Act in any district or division of the county of Monmouth, or of any county in Wales, or for any city, borough, cinque port, liberty, franchise, town, or place in England or Wales (other than the cities and towns hereinbefore mentioned), unless such person be seised or

[1] Now Inland Revenue, see the Income Tax Act, 1853 (16-7 V. c. 34), s. 9.
[2] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

possessed of an estate of the like nature and of four fifths of the value required for the estate of a Commissioner acting for a district or division of a county at large in England as aforesaid, or unless such person be the eldest son of some person who shall be seised or possessed of some estate of thrice the value required as the qualification of a Commissioner, in right of his own estate, for the same county, city, borough, cinque port, liberty, franchise, town, or place. places not before mentioned.

12. [[1]And be it enacted, that] no person hereby required to be qualified in respect of estate shall be capable of acting as a Commissioner for General Purposes in execution of this Act for any shire [[2]or stewartry] in Scotland unless such person be enfeoft in superiority or property, or possessed as proprietor or life renter, of lands in Scotland to the extent of one hundred and fifty pounds Scots per annum valued rent, or unless such person be possessed of personal estate of the value of five thousand pounds, or of personal estate, or an interest therein, producing an annual income of two hundred pounds sterling, or be enfeoft or possessed as aforesaid of lands and personal estate, or an interest therein, being together of the annual value of two hundred pounds sterling, estimating in every such case one hundred pounds personal estate as equivalent to four pounds per annum, and an interest from personal estate of four pounds per annum, as equivalent to one hundred pounds personal estate, or unless such person be the eldest son of some person who shall be enfeoft or possessed of a like estate of twice the value required as the qualification of a Commissioner, in right of his own estate, for such shire [[2]or stewartry]. Qualification for shires or stewartries in Scotland;

13. [[1]And be it enacted, that] no person herein required to be qualified in respect of estate shall be capable of acting as a Commissioner for General Purposes in execution of this Act for any city or borough in Scotland unless such person be enfeoft or possessed of an estate of the like nature and of three fifths of the value required for the estate of a Commissioner acting for any shire [[2]or stewartry] in Scotland, or unless such person be the eldest son of some person enfeoft or possessed of some estate of thrice the value required as the qualification of a Commissioner, in right of his own estate, for the same city or borough. for cities or boroughs in Scotland.

14. Provided always, [[1]and be it enacted,] that no estate consisting of lands or tenements, as the qualification of a Commissioner, shall be required to be situate in the county, riding, division, [[2]shire or stewartry] for which any person shall be a Commissioner: Provided also, that the proof of qualification where required shall lie on the person acting in the execution of this Act, in such manner as is by law directed with respect to Commissioners acting in the execution of the said Land Tax Act. Qualification in lands need not be in the county. Proof of qualification.

15. Provided also, [[1]and be it enacted,] that nothing herein contained shall be construed to require any qualification of a Commissioner in the district of the palaces of Whitehall and Saint James Westminster, for any officer who shall have heretofore acted or may hereafter act as a Commissioner for putting in execution the said Land Tax Act in the said district, other than the possession of their respective offices; nor in any shire [[2]or stewartry] in Scotland, for any provost, baillie, dean of guild, treasurer, Qualification not required for certain officers acting as Commissioners, nor for Special Commissioners.

[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

[2] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1890 (53-4 V. c. 51).

master of the merchants company, or deacon convenor of the trades for the time being of any royal burgh in Scotland, nor any baillie for the time being of any borough of regality or barony of Scotland, nor the factors for the time being on the several forfeited estates annexed to the Crown by an Act passed in the twenty-fifth year of the reign of King George the second, who shall be respectively appointed Commissioners for executing the said Land Tax Act in any shire [[1]or stewartry] in Scotland; nor for any Commissioner for Special Purposes acting in the execution of any of the powers or provisions of this Act.

For choosing additional Commissioners;

16. [[2]And be it enacted, that] whenever it shall be deemed by the Commissioners for the General Purposes of this Act to be expedient that certain of the powers herein contained shall be executed by Commissioners other than and in addition to the persons to be chosen or appointed as aforesaid, such additional Commissioners shall be chosen by the Commissioners for General Purposes acting in the same district; for which purpose the said Commissioners, being duly qualified as required by this Act, shall, with the consent of the major part of them assembled at any meeting to be held for that purpose, set down in writing lists of the names of such persons residing within their respective districts as shall in the opinion of such Commissioners be fit and proper persons to act as such additional Commissioners, which lists shall contain the names of so many of those persons as the said Commissioners shall in their discretion, after taking into consideration the size of each district, and the number of persons to be assessed therein, think requisite for the due execution of this Act; which lists, being respectively signed by such Commissioners, shall be a sufficient authority for such additional Commissioners being respectively qualified as hereinafter is mentioned, and they are hereby authorized to take upon themselves the execution of the several powers of this Act according to the provisions thereof: Provided always, that the persons appointed to supply vacancies in any district may be chosen and act as additional Commissioners until their services shall be required as Commissioners for General Purposes: Provided also, that no person shall be capable of acting as such additional Commissioner who shall not be seised or enfeoft or possessed of an estate of the like nature, and of one half the value, herein required for the estate of a Commissioner for General Purposes in the same district: Provided also, that where no additional Commissioners shall be named and appointed in any district the Commissioners appointed for General Purposes shall execute this Act in such district in all matters and things hereby authorized to be done by additional Commissioners.

their qualification.

In default of naming additional Commissioners.

Appointment of Commissioners in places not having persons qualified.

17. Provided always, [[2]and be it enacted,] that if in any city, liberty, franchise, cinque port, town, or place, for which separate Commissioners have been appointed to act in execution of the said Land Tax Act, there shall not be found a sufficient number of persons, qualified as directed by this Act, and willing to Act as Commissioners for General Purposes, or as additional Commissioners, it shall be lawful to appoint, as such Commissioners or additional Commissioners, any persons residing in such city, liberty, franchise, cinque port, town, or place, who shall be liable to be

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[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1890 (53-4 V. c. 51).

[2] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

assessed under the provisions contained in this Act for annual profits, however arising, to the amount of two hundred pounds or upwards.

Newly appointed Commissioners may assess and levy for former years.

18. [[1]And be it enacted, that] whenever a new appointment of Commissioners shall take place they shall execute this Act as well with respect to the duties which shall not but which ought to have been assessed in any former year, and with respect to arrears of duties assessed in any former year under this Act, as to the assessments to be made in such year in which they shall be appointed, and shall have the like powers to assess, levy, and collect such duties and arrears as they have to assess, levy, and collect the duties assessed by them; for all which acts such appointment shall be a sufficient authority, subject to the regulations of this Act.

Notice to be given to additional Commissioners to take upon themselves the execution of this Act.

19. [[1]And be it enacted, that] whenever the said Commissioners for General Purposes shall have named such additional Commissioners as aforesaid, they shall cause notice thereof in writing, signed by two or more of them, to be delivered to the said additional Commissioners by the assessors of the respective parishes or places where they reside, naming the day and place appointed by the Commissioners for General Purposes for the first meeting of the said additional Commissioners, and which meeting shall be appointed to be held not later than ten days after the date of such notice; and the said respective assessors shall, without delay, cause the respective persons so named to be summoned, by notice in writing, either given personally or left at their respective places of abode, to assemble, at the time and place mentioned in such notice, for the purpose of qualifying themselves to act in the execution of the powers vested in them by this Act; and the said Commissioners for General Purposes shall administer the oath to such additional Commissioners required by this Act to be taken by them, and shall then and there appoint a day for the said additional Commissioners to bring in their certificates of assessment in the manner herein directed; and the clerk to the Commissioners in each district, or his assistant, shall also be appointed clerk to the additional Commissioners appointed for the same district, and shall attend the said additional Commissioners at their meetings as their clerk.

The oath to be administered to them.

Clerk.

Dividing additional Commissioners into committees.

Number of additional Commissioners in each committee or district.

20. [[1]And be it enacted, that] it shall be lawful for the Commissioners for General Purposes, whenever in their judgment the same shall be requisite, to divide such additional Commissioners into district committees, and to allot to each committee distinct parishes, wards, or places in which such committees shall separately act in the execution of this Act, but so that the meetings of such committee shall be appointed at such times as that the clerk to such Commissioners may attend every meeting: Provided always, that not more than seven persons shall act together as additional Commissioners for the same district not being formed into several divisions as aforesaid, nor any greater number act together in the same committee; and that where more than seven persons shall attend as such additional Commissioners at any meeting, either for the whole of any district or for any division thereof, the seven persons first in their order on the list signed by the Commissioners for General Purposes then present shall act, and the rest shall withdraw from such meeting: Provided also, that not less than two additional Commissioners shall be competent to form any meeting either for

[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

any district or division thereof, and that any two of them, or the major part of them then present, shall be competent to do any act authorized by this Act.

For appointing a greater number of Commissioners for General Purposes instead of additional Commissioners.

21. Provided always, [[1]and be it enacted,] that if it shall appear to the Commissioners for General Purposes, whether they shall have been chosen as aforesaid or shall act by virtue of their appointment of Commissioners for executing the said Land Tax Act, to be expedient that a greater number than seven Commissioners for General Purposes, possessing the qualification required for such Commissioners, should be appointed for any district, instead of appointing Commissioners possessing only the qualification required for additional Commissioners as before mentioned, it shall be lawful for them to appoint such greater number, not in any case exceeding the number of seven, observing, with regard to such appointments, the same rules as in the first appointment of Commissioners for General Purposes, but nevertheless, without adding thereto any persons to supply their vacancies; and in every case, of appointing such increased number of Commissioners for General Purposes it shall be lawful for the said Commissioners, at their first meeting after such appointment, and they are hereby required, to choose indifferently by lot such number of their own body, not less than two or more than seven, to execute the office vested in additional Commissioners by this Act, and the persons so chosen shall be additional Commissioners for executing this Act and the powers hereby vested in additional Commissioners, and they are hereby required to execute this Act accordingly, and the remaining Commissioners not so chosen by lot shall execute the powers vested in the Commissioners for General Purposes; provided also, that where no such additional Commissioners shall have been appointed specially to execute the powers vested in additional Commissioners, the Commissioners acting in the execution of the powers of this Act, whether chosen as aforesaid or not, shall divide themselves in such manner that two Commissioners at the least shall be appointed to execute the powers vested in additional Commissioners by this Act; and if in such case there shall not be two remaining persons at least qualified to act as Commissioners for General Purposes in such district, then the persons qualified to act in the execution of the powers of this Act as Commissioners for General Purposes in any adjoining district of the same county, riding, division, shire, or stewartry, or such number of them as shall be requisite, shall execute this Act and the powers hereby vested in Commissioners for General Purposes in and for such first-mentioned district.

Two of them to execute the office of additional Commissioners.

Where none such are appointed, then Commissioners for General Purposes may act.

If not sufficient, then others may be taken out of the adjoining district.

Commissioners for General Purposes to execute all matters with respect to the duties under all the schedules, except such as are directed to be executed by special or other Commissioners.

22. [[1]And be it enacted, that] the Commissioners for General Purposes shall execute this Act in all matters and things relating to the duties in Schedules (A.) and (B.) of this Act, except such allowances in respect thereof as are directed to be made in Number VI. of Schedule (A.) by other Commissioners for Special Purposes as hereinafter mentioned, and also all matters and things relating to the duties in Schedule (D.) of this Act, except in cases where such matters and things are herein directed to be done by the said Commissioners for Special Purposes, or by the additional Commissioners, or persons acting as such; and the said Commissioners for General Purposes shall also execute this Act in all matters and things relating to the duties in Schedule (E.) not executed by the Commissioners authorized

[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

to be appointed for those duties: Provided always, that nothing herein contained shall be construed to preclude any person chosen a Commissioner for General Purposes from acting as such by reason of his acting or having acted as an additional Commissioner, except only in the hearing and determining of appeals against or relating to such particular assessments wherein he shall have made an assessment as such additional Commissioner.

Commissioners for Special Purposes.

23. [[1]And be it enacted, that] the Commissioners of [[2]Stamps and Taxes] for the time being, together with such persons as shall be appointed Commissioners for Special Purposes as next hereinafter mentioned, shall be Commissioners for the Special Purposes of this Act; and it shall be lawful for the [[3]Commissioners of her Majesty's] Treasury [[3]of the United Kingdom of Great Britain and Ireland,] by warrant [[3]under their hands and seals,] from time to time to appoint such and so many other persons to be Commissioners for such Special Purposes as they respectively shall think expedient; which said Commissioners of [[2]Stamps and Taxes,] and Commissioners so to be appointed as last aforesaid, without other qualification being required than the possession of their respective offices, shall have full authority to execute the several powers given by this Act to Commissioners for Special Purposes, either in relation to the allowances specified in Number VI. Schedule (A.) of this Act, or in relation to the special exemptions granted from the duties mentioned in Schedule (C.) of this Act, or to the charging and assessing the profits arising from annuities, dividends, and shares of annuities paid in Great Britain[4] out of the revenues of any foreign state, as herein mentioned, and also in relation to the examining, auditing, checking, and clearing the books and accounts of dividends delivered to the Commissioners of [[2]Stamps and Taxes] under the authority of this Act, and shall also have full authority to do any other act, matter, or thing hereby directed or required to be done by Commissioners for Special Purposes; and all powers, provisions, clauses, matters, and things contained in this Act for ascertaining the amount of any duty, exemption, or allowance mentioned in this Act shall be used, practised, and put in execution by the said Commissioners for Special Purposes in ascertaining the amount of duty or any exemption or allowance placed under their cognizance or jurisdiction: Provided always, that it shall not be lawful for the said Commissioners for Special Purposes (except when acting in the execution of this Act in the place of Commissioners for General Purposes, or on any appeal in the cases authorized by this Act,) to summon any person to be examined before them, but all inquiries by or before the said Commissioners for Special Purposes (except in the several cases aforesaid) shall be answered by affidavit, to be taken before one of the Commissioners for General Purposes in their respective districts; and such Commissioners for Special Purposes shall have authority to use, exercise, and apply all the powers of this Act as effectually as any other Commissioners are hereby authorized to use, exercise, or apply the same, so far as the same powers relate to the jurisdiction given to the said Commissioners for Special Purposes; and the said Commissioners for

Functions of Special Commissioners.

Their proceedings to be by affidavit without vivâ voce examination.

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[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

[2] Now Inland Revenue, see the Income Tax Act, 1853 (16-7 V. c. 34, s. 9).

[3] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1890 (53-4 V. c. 51).

[4] Now the United Kingdom, see the Income Tax Act, 1853 (16-7 V. c. 34).

Special Purposes shall and may be allowed such salary for their pains and trouble, and such incidental expenses, as the [[1]said Commissioners of her Majesty's] Treasury shall direct to be paid to them: Provided always, that the [[1]said Commissioners of her Majesty's] Treasury shall cause an account of all appointments of Commissioners for Special Purposes with salaries to be laid before each House of Parliament within twenty days after their appointment respectively, if Parliament shall then be sitting, and if Parliament shall not be sitting then within twenty days after the next meeting of Parliament.

Appointments of Commissioners with salaries to be laid before Parliament.

Governor and directors of the Bank of England to be Commissioners for assessing duties on all annuities, dividends, pensions, salaries, &c. payable by the bank, and on their profits.

24. [[2]And be it enacted, that] the governor and directors of the Company of the Bank of England shall be Commissioners for executing this Act, for the purpose of assessing and charging the duties hereby granted in respect of all annuities payable to the said company at the receipt of the exchequer, and the profits attached to the same, and divided amongst the several proprietors, and in respect of all annuities, dividends, and shares of annuities payable out of the revenue of the United Kingdom to any persons, corporations, or companies whatever, and which shall have been intrusted to the said governor and company for such payment, and in respect of all other annuities, dividends, and shares of annuities which shall have been intrusted to the said governor and company for payment as aforesaid, and in respect of all profits and gains of the said company chargeable under Schedule (D.) of this Act, and in respect of all other dividends, annuities, pensions, and salaries payable by the said company, and also in respect of all other profits chargeable with duty under this Act, and arising within any office or department under the management or control of the said governor and company; and the said Commissioners shall have authority to use, exercise, and apply all the powers of this Act as fully and effectually as the Commissioners for the General Purposes of this Act are authorized to use, exercise, or apply the same, so far as the same relate to the said duties to be assessed and charged by the said governor and directors, and shall make their assessments of the said duties under and subject to the rules, regulations, and exemptions contained in the several schedules of this Act under which such duties are respectively chargeable.

Governor, &c. of the Bank of Ireland to be Commissioners for assessing duties on annuities and dividends to persons not resident in Ireland.

25[3]. And be it enacted, that the governor and directors of the company of the Bank of Ireland shall be Commissioners for executing this Act, and with the like powers as aforesaid, for the purpose of assessing and charging the duties hereby granted in respect of all annuities, dividends, and shares of annuities payable by the governor and company of the Bank of Ireland out of the public revenue of the United Kingdom, to or for the use or benefit of any persons not resident in Ireland; and the said last-mentioned Commissioners shall make their assessments of the said duties, under and subject to the rules, regulations, and exemptions contained in Schedule (C.) of this Act.

Governors, &c. of the South Sea Company to

26[3]. And be it enacted, that the governors and directors of the South Sea Company shall be Commissioners for executing this Act, with the like powers as aforesaid, for the purpose of assessing and charging the duties

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[2] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

[3] This section is repealed by Statute Law Revision (No. 2) Act, 1874 (37-8 V. c. 96).

hereby granted in respect of all annuities payable to the said company at the receipt of the Exchequer, and the profits attached to the same, and divided amongst the several proprietors, and in respect of all annuities, dividends, and shares of annuities payable out of the revenue of the United Kingdom to any persons, corporations, or companies whatever, and which shall have been entrusted to the said company for such payment, and in respect of all other dividends, annuities, pensions, and salaries payable by the said company, and also in respect of all other profits chargeable with duty under this Act, and arising within any office or department under the management or control of the said governors and company; and the said Commissioners shall make their assessments of the said duties under and subject to the rules, regulations, and exemptions contained in the several schedules of this Act under which such duties are respectively chargeable.

be Commissioners for assessing duties on all annuities, dividends, pensions, salaries, &c. payable by them.

27. [[1]And be it enacted, that] the directors of the East India Company shall be Commissioners for executing this Act, and with the like powers as aforesaid, for the purpose of assessing and charging the duties hereby granted in respect of the interest payable on the bonds of the said company, and in respect of all dividends, annuities, pensions, and salaries payable by the said company, and also in respect of all other profits and gains chargeable with duty under this Act, and arising within any office or department under the management or control of the said company, which assessments shall be made under and subject to the rules, regulations, and exemptions contained in the several schedules under which the said duties are respectively chargeable.

Directors of the East India Company to be Commissioners for assessing duties on interest, dividends, annuities, pensions, salaries, &c. payable by them.

28. [[1]And be it enacted, that] the Commissioners for the Reduction of the National Debt shall be Commissioners for executing this Act, and with the like powers as aforesaid, for the purpose of assessing and charging the duties hereby granted in respect of all annuities payable by them out of the revenue of the United Kingdom, and in respect of all salaries and pensions payable in any office or department under their management or control; and the said Commissioners shall make their assessments of the said duties under and subject to the rules, regulations, and exemptions contained in the several schedules under which the said duties are respectively chargeable.

Commissioners for reduction of national debt to assess the duties on all annuities paid by them, and on salaries and pensions.

29. [[1]And be it enacted, that] the said Commissioners for Special Purposes shall be Commissioners under the regulations of this Act, and with the like powers as aforesaid, for the purpose of assessing and charging the duties hereby made payable on all dividends and shares of annuities payable out of the revenue of any foreign State to any persons, corporations, companies, or societies in Great Britain,[2] which shall have been or shall be intrusted for such payment to any person, corporation, company, or society whatever in Great Britain,[2] other than and except the several companies aforesaid, which assessments shall be made under and subject to the rules, regulations, and exemptions contained in Schedule (C.) of this Act.

Commissioners for charging foreign dividends.

30. And for the ordering, raising, levying, and paying of the said sums of money hereby made payable on offices and employments of profit, be it enacted, that the Lord High Chancellor, the judges, and the principal officer or officers of each court or public department of office under her Majesty throughout Great Britain,[2] whether the same shall be civil, judicial,

Appointment of Commissioners for the duties on offices in the courts or public departments.

[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

[2] Now the United Kingdom, see the Income Tax Act, 1853 (16-7 V. c. 34).

or criminal, ecclesiastical or commissary, military or naval, shall respectively have authority to appoint Commissioners from and amongst the officers of each court or department of office respectively; and the persons so appointed, or any three or more of them, not in any case exceeding seven, shall be Commissioners for executing this Act in relation to the offices in each such court or department respectively: Provided always, that in relation to each department of office, not being one of her Majesty's courts, civil, judicial, or criminal, or an ecclesiastical or commissary court, the [1 Commissioners of her Majesty's] Treasury shall, whenever they may think it expedient, settle and determine in what particular departments Commissioners shall not be appointed, and in such case shall settle and determine in what other department of office the officers of that department wherein Commissioners shall not be appointed shall be assessed; and also whenever there shall be any default in the offices of any department, or in any court aforesaid, in appointing Commissioners the [1 said Commissioners of her Majesty's] Treasury shall, within the time herein limited, appoint fit and proper persons to be Commissioners for executing this Act in the several courts or departments of offices aforesaid for which they shall be appointed from and amongst the officers in the several departments respectively, uniting for the purposes of this Act, in cases requiring the same, two or more offices under the same Commissioners, but nevertheless with distinct officers from each office so united for assessing and collecting the duties, as directed by this Act; and where any dispute shall arise touching the department in which any office is executed, the [1 said Commissioners of her Majesty's] Treasury shall determine the same: Provided also, that where the Commissioners of one department shall execute this Act in relation to any other department, the assessors and collectors for such other department shall be appointed from the officers of such other department, with all the powers and privileges appertaining to such appointments: Provided also, that where no appointment shall be made of Commissioners before the expiration of the time limited by this Act, the Commissioners for executing this Act in relation to the duties on lands and tenements shall, on due notice in the manner herein directed, execute this Act in their several districts in relation to the said duties on offices and employments of profit exercised within the same districts respectively; and the appointment of such Commissioners for offices and employments of profit shall be notified to the Commissioners of [2 Stamps and Taxes]; and the want of such notification in due time shall be deemed full proof of default in making such appointment.

Power reserved to the Treasury with respect to the assessing of public departments.

Commissioners for duties on offices in Houses of Parliament, counties palatine, inferior courts, and

31. [3And be it enacted, that] the speaker and the principal clerk of either House of Parliament, the principal or other officers in the several counties palatine, and the Duchy of Cornwall, or in any ecclesiastical court, or in any inferior court of justice, whether of law or equity, or criminal or justiciary, or under any ecclesiastical body or corporation, whether aggregate or sole, throughout Great Britain,4 shall appoint Commissioners from and amongst the persons executing offices in either House of Parliament, or in their respec-

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[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1890 (53-4 V. c. 51).

[2] Now Inland Revenue, see the Income Tax Act, 1853 (16-7 V. c. 34, s. 9).

[3] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

[4] Now the United Kingdom, see the Income Tax Act, 1853 (16-7 V. c. 34).

tive departments of office; and the persons so appointed, or any three or more of them, not in any case exceeding seven, shall be Commissioners for executing this Act, in relation to the places, offices, and employments of profit in each House of Parliament, and in each such department respectively; which appointments shall be made, and the names of the Commissioners shall be transmitted to the Commissioners of [1 Stamps and Taxes] within the time herein limited, or in default thereof such appointments shall be made by the [2 Commissioners of her Majesty's] Treasury: Provided always, that where no such appointment as last mentioned shall be made before the expiration of the time limited by this Act, the Commissioners for executing this Act in relation to the duties on lands and tenements shall, in their several districts, on due notice of such default in the manner herein directed, also execute this Act in relation to the duties on such offices or employments of profit exercised within the same districts respectively; and the want of notification of any such appointment to the Commissioners of [1 Stamps and Taxes] in due time shall be deemed full proof of default in making such appointment.

under ecclesiastical bodies.

32. [3And be it enacted, that] the mayor, aldermen, and common council, or the principal officers or members, by whatever name they shall be called, of every corporate city, borough, town, or place, and of every cinque port, throughout Great Britain,[4] or any three or more of them, not in any case exceeding seven, shall be Commissioners for executing this Act, and the powers herein contained, in relation to the public offices or employments of profit in such city, corporation, and cinque port, and in every guild, fraternity, company, or society, whether corporate or not corporate, within such city, corporation, or cinque port; and that for all offices or employments of profit (not being public offices or employments of profit under her Majesty) in any county, riding, [2 shire, stewartry,] city, liberty, franchise, town, or place, whether in the appointment of the lieutenant, custos rotulorum, or the justices or magistrates, or Commissioners for aids or taxes, or sheriff of such county, riding, [2 shire, stewartry,] city, liberty, franchise, town, or place, or of any trustees or guardians of any trust or fund in such county, riding, [2 shire, stewartry,] city, town, or place, and for all parochial offices in such county, riding, [2 shire, stewartry,] city, town or place, (except corporate offices in cities, corporate towns, boroughs, or places, or offices in cinque ports as aforesaid,) the Commissioners for executing this Act in relation to the duties on lands and tenements shall, in their several districts, also execute this Act in relation to the said duties on offices in such county, riding, [2 shire, stewartry,] city, liberty, franchise, town, or place; and such respective Commissioners shall and may exercise any of the powers contained in this Act, in relation to any of the duties herein mentioned, for causing due returns to be made from the respective officers within their respective jurisdictions, and for compelling the assessors to make their assessments, and return the same, and for the due collection of and accounting for the said duties, and may act therein in all respects as fully and

Commissioners for the duties on offices in cities and boroughs, and all other offices not under the Crown, in counties, ridings, &c.

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[1] Now Inland Revenue, see the Income Tax Act, 1853 (16-7 V. c. 34), s. 9.
[2] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1890 (53-4 V. c. 51).
[3] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).
[4] Now the United Kingdom, see the Income Tax Act, 1853 (16-7 V. c. 34).

effectually as any other Commissioners are hereby empowered to act in relation to the said other duties; provided the moneys collected of the said duties, under the respective Commissioners acting for such offices in corporate cities, boroughs, towns, or places aforesaid, or in the cinque ports, or in the several counties, ridings, divisions, [1 shires, stewartries,] cities, liberties, franchises, towns, and places, shall be paid to the proper officer for receipt for the county, riding, [1 shire, or stewartry,] and not otherwise, and that the like duplicates shall be delivered of such last mentioned duties as in other cases where the same are directed to be paid in like manner.

Appointment of Commissioners to be notified to the stamp and tax offices; in default of such notification, the appointment to devolve on the Treasury, and the Commissioners of the district to execute the Act.

33. [2And be it enacted, that] the appointment of Commissioners for executing this Act in relation to the duties on offices and employments of profit as aforesaid shall be notified to the Commissioners of [3Stamps and Taxes,] within one calendar month after the passing of this Act, with respect to the first assessment under the same, and within one calendar month after the 5th day of April in any future year; and in default thereof the appointment of such Commissioners shall devolve on the [1Commissioners of her Majesty's] Treasury, and on the Commissioners of the district, in succession as aforesaid: Provided always, that such appointment by the [1Commissioners of her Majesty's] Treasury shall take place within one calendar month after the notification of such default as aforesaid from the Commissioners of [3Stamps and Taxes]; and in case of no appointment as last aforesaid, notified to the Commissioners of [3Stamps and Taxes] in like manner, the execution of this Act shall devolve on the Commissioners appointed for the district in relation to the duties on lands, tenements, and hereditaments; and every such appointment shall be until other Commissioners shall be appointed, and may be renewed annually on or before the 5th day of April in each year during the continuance of this Act: Provided always, that the Commissioners so to be appointed may continue to act from year to year, so long as they are respectively willing to act, without any new appointment, unless it shall be deemed expedient under the powers of this Act that any department for which Commissioners have been appointed should be assessed under the Commissioners of any other department.

Commissioners appointed may continue to act.

Commissioners for the duties on pensions and stipends payable by her Majesty.

34. [2And be it enacted, that] for the better execution of this Act, so far as the same relates to the duties hereby granted on pensions or stipends payable by her Majesty, or out of the public revenue, contained in Schedule (E.), and for the ordering, raising, levying, and paying off the duties hereby made payable thereon, in cases not otherwise provided for by this Act, the paymasters of civil services, and such other persons as the [1Commissioners of her Majesty's] Treasury shall appoint, shall be Commissioners for executing this Act, and all the powers herein contained, in relation to the said last-mentioned duties, or shall respectively appoint Commissioners from and amongst the officers of those departments for such purposes.

Commissioners entitled to certificates

35. [2And be it enacted, that] every person acting as a Commissioner as aforesaid in the execution of this Act shall on request be entitled unto a certificate thereof under the hands of the Commissioners of [3Stamps and

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[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1890 (53-4 V. c. 51).

[2] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

[3] Now Inland Revenue, see the Income Tax Act, 1853 (16-7 V. c. 34), s. 9.

Taxes], which certificate shall continue in force so long only as such person shall continue to act as such Commissioner, and shall be revocable by the [1Commissioners of her Majesty's] Treasury, by any instrument in writing [1under their hands], when it shall appear to them that such person hath neglected to perform his duty as such Commissioner; and the person to whom such certificate shall have been granted shall, during the continuance thereof in force, be discharged of and from all parish and ward offices within the parish or ward wherein such person shall dwell, [2and from serving on juries in the county wherein such person shall dwell,] which said certificate shall be enrolled by the clerk of the peace of the county or city in which the same shall be granted, for which enrolment the said clerk of the peace shall have for his fee the sum of one shilling, and no more; and the said clerk of the peace shall cause every certificate revoked in manner aforesaid to be taken off the roll on notice thereof to be given to him by the Commissioners of [3Stamps and Taxes]. exempting them from parish and ward offices and serving on juries.

36. [4And be it enacted, that] in England the Commissioners for General Purposes may appoint assessors and collectors for the duties granted by this Act in like manner as assessors and collectors may be appointed under the [5said Acts relating to the duties of assessed taxes]; and in Scotland the said Commissioners for General Purposes may in like manner appoint assessors for the said duties hereby granted; and the same persons who now are or may be appointed collectors or officers for collecting and receiving the land tax and assessed taxes in Scotland under the authority of the Act in that behalf made, and none other, shall be collectors and receivers of the duties granted by this Act. Appointment of assessors and collectors.

37. [4And be it enacted, that] the officers for receipt of the land tax and assessed taxes appointed or to be appointed by the [1Commissioners of her Majesty's] Treasury, or by the Commissioners of [3Stamps and Taxes], and the inspectors and surveyors appointed or to be appointed in like manner for the duties of assessed taxes, shall be respectively officers for receipt and inspectors and surveyors of the duties granted by this Act; and the said Commissioners for General Purposes, and the said additional Commissioners acting in the execution of this Act, and the said assessors and collectors, to be appointed as herein mentioned, and the said officers for receipt, and inspectors and surveyors respectively, shall be and they are hereby respectively empowered and required to do all things necessary for putting this Act in execution, with relation to the said duties hereby granted, in the like and in as full and ample a manner as any Commissioners, assessors, collectors, officers for receipt, surveyors, or inspectors are authorized to put in execution the said Acts relating to the said duties of assessed taxes, or any matter or thing therein contained, as well with respect to all acts, matters, and things to be done by, under, or before the said additional Commissioners, or by, under, or before the Commissioners for General Purposes in their respective Officers for receipt of land tax and assessed taxes, and the inspectors and surveyors of assessed taxes, to act in the execution of this Act; and to have the like powers as under the assessed taxes.

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[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1890 (53-4 V. c. 51).

[2] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1874 (37-8 V. c. 96).

[3] Now Inland Revenue, see the Income Tax Act, 1853 (16-7 V. c. 34), s. 9.

[4] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

[5] For these Acts the Taxes Management Act, 1880 (43-4 V. c. 19), is now substituted. See sect. 7 of that Act.

districts or departments, as by, under, and before the said Commissioners for Special Purposes.

Commissioners and others to take the oaths in Schedule (F.).

38. [[1]And be it enacted, that] every person appointed a Commissioner either for General or Special Purposes, or an additional Commissioner, or an assessor or collector, or a clerk or clerk's assistant to the said respective Commissioners, and every inspector, surveyor, and officer for receipt, shall, before he shall begin to act in the execution of this Act, so far as relates to the duties contained in Schedule (D.), take the oath prescribed by this Act, and contained in the Schedule marked (F.) applicable to such officers respectively; which oath any one of the persons appointed a Commissioner, either for General or Special Purposes as aforesaid, or an additional Commissioner, is hereby authorized to administer, (except that every such oath so to be administered to any Commissioner for General or Special Purposes as aforesaid, or to an additional Commissioner, shall be administered by a Commissioner for such General or Special Purposes, and not otherwise,) and which oath so taken shall be subscribed by the party taking the same; and if any person shall act as a Commissioner in relation to the duties in Schedule (D.), except in administering the oath herein mentioned, or shall act as a clerk or clerk's assistant, or an assessor, collector, inspector, surveyor, or officer for receipt, in relation to the duties contained in the said Schedule (D.), before he shall have taken the oath herein required to be taken by such officer respectively, he shall forfeit the sum of one hundred pounds.

Temporary absentees to be charged as residents.

39. [[1]And be it enacted, that] any subject of her Majesty whose ordinary residence shall have been in Great Britain,[2] and who shall have departed from Great Britain[2] and gone into any parts beyond the seas, for the purpose only of occasional residence, at the time of the execution of this Act, shall be deemed, notwithstanding such temporary absence, a person chargeable to the duties granted by this Act as a person actually residing in Great Britain,[2] and shall be assessed and charged accordingly (in manner hereinafter directed) upon the whole amount of his profits or gains, whether the same shall arise from property in Great Britain[2] or elsewhere, or from any allowance, annuity, or stipend, (except as herein is excepted,) or from any profession, employment, trade, or vocation, in Great Britain[2] or elsewhere: Provided always, that no person who shall on or after the passing of this Act actually be in Great Britain[2] for some temporary purpose only, and not with any view or intent of establishing his residence therein, and who shall not actually have resided in Great Britain[2] at one time or several times for a period equal in the whole to six months in any one year, shall be charged with the said duties mentioned in Schedule (D.), as a person residing in Great Britain,[2] in respect of the profits or gains received from or out of any possessions in [[3]Ireland, or] any other of her Majesty's dominions, or any foreign possession, or from securities in [[3]Ireland, or] any other of her Majesty's dominions, or foreign securities; but nevertheless every such person shall, after such residence in Great Britain[2] for such space of time as aforesaid, be chargeable to the said duties for the year commencing on the sixth day of April preceding: Provided also, that any person who shall depart from Great Britain[2]

Temporary residents to be charged after six months residence.

Persons departing after

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[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

[2] Now the United Kingdom, see the Income Tax Act, 1853 (16-7 V. c. 34).

[3] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1874 (37-8 V. c. 96).

after claiming such exemption, and shall again return to Great Britain[1] on or before the fifth day of April next after such claim made, shall be chargeable to the said duties as a person residing in Great Britain[1] for the whole of the year in which such claim shall have been made.

claiming exemption, and returning within the year, to be charged.

40. [[2]And be it enacted, that] all bodies politic, corporate, or collegiate, companies, fraternities, fellowships, or societies of persons, whether corporate or not corporate, shall be chargeable with such and the like duties as any person will under and by virtue of this Act be chargeable with, and that the chamberlain or other officer acting as treasurer, auditor, or receiver for the time being of every such corporation, company, fraternity, fellowship, or society shall be answerable for doing all such acts, matters, and things as shall be required to be done by virtue of this Act, in order to the assessing such bodies corporate, companies, fraternities, fellowships, or societies to the duties granted by this Act, and paying the same.

Corporations and societies to be charged with duties, and their officers to do all acts requisite for assessment.

41. [[2]And be it enacted, that] the trustee, guardian, tutor, curator, or committee of any person, being an infant, or married woman, lunatic, idiot, or insane, and having the direction, control, or management of the property or concern of such infant, married woman, lunatic, idiot, or insane person, whether such infant, married woman, lunatic, idiot, or insane person shall reside in Great Britain[1] or not, shall be chargeable to the said duties in like manner and to the same amount as would be charged if such infant were of full age, or such married woman were sole, or such lunatic, idiot, or insane person were capable of acting for himself; and any person not resident in Great Britain,[1] whether a subject of her Majesty or not, shall be chargeable in the name of such trustee, guardian, tutor, curator, or committee, or of any factor, agent, or receiver, having the receipt of any profits or gains arising as herein mentioned, and belonging to such person, in the like manner and to the like amount as would be charged if such person were resident in Great Britain,[1] and in the actual receipt thereof; and every such trustee, guardian, tutor, curator, committee, agent, or receiver shall be answerable for the doing of all such acts, matters, and things as shall be required to be done by virtue of this Act, in order to the assessing of any such person to the duties granted by this Act, and paying the same.

Trustees and guardians of incapacitated persons to be charged.

Non-residents to be charged in the names of their factors or agents.

42. Provided always, [[2]and be it enacted,] that no trustee who shall have authorized the receipt of the profits arising from trust property by the person entitled thereunto, or by the agent of such last-mentioned person, and which person shall actually receive the same under such authority, nor any agent or receiver of any person being of full age, and resident in Great Britain,[1] (other than a married woman, lunatic, idiot, and insane person,) who shall return a list in the manner hereinafter required of the name and residence of such person, shall be required to do any other act for the purpose of assessing such person, unless the Commissioners acting in the execution of this Act in respect of the assessment to be made on such person shall require the testimony of such trustee, agent, or receiver in pursuance of the powers and authorities by this Act given.

Trustees or agents of persons of full age, resident in Great Britain, not required to do more than deliver list of names and residences of such persons.

43. [[2]And be it enacted, that] the receiver appointed by the Court of Chancery, or by any other court in Great Britain,[2] having the direction and control of any property in respect whereof a duty is charged by this Act,

Receivers of trust property appointed by the Court of

[1] Now the United Kingdom, see the Income Tax Act, 1853 (16-7 V. c. 34).

[2] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

Chancery or other courts chargeable.

whether the title to such property shall be uncertain or not, or subject to any contingency or not, or be depending or be not ascertained by reason of any dispute or other cause, shall be chargeable to the said duties in like manner and to the like amount as would be charged if the said property was not under the direction and control of such court, and the title thereto was certain, and not subject to any contingency whatever; and every such receiver shall be answerable for doing all such matters and things as shall be required to be done by virtue of this Act, in order to the assessing of the duties granted by this Act, and paying the same.

Trustees, agents, receivers, and officers may retain the duties charged upon them out of trust moneys.

44. [[1]And be it enacted, that] where any person, being trustee, agent, factor, or receiver, guardian, tutor, curator, or committee of or for any person, shall be assessed under this Act in respect of such person, or where any chamberlain, treasurer, clerk, or other officer of any corporation, company, fraternity, or society shall be so assessed in respect of such corporation, company, fraternity, or society as aforesaid, it shall be lawful for every such person who shall be so assessed, by and out of the money which shall come to his hands as such trustee, agent, factor, or receiver, guardian, tutor, committee, or curator as aforesaid, or as such chamberlain, treasurer, clerk, or other officer, to retain so much and such part thereof from time to time as shall be sufficient to pay such assessment; and every such trustee, agent, factor, or receiver, guardian, tutor, committee, or curator, chamberlain, treasurer, clerk, or other officer, shall be and is hereby indemnified against every person, corporation, company, fraternity, or society whatsoever, for all payments which he shall make in pursuance and by virtue of this Act.

Married women sole traders, or having separate property, how chargeable.

45. [[1]And be it enacted, that] any married woman acting as a sole trader by the custom of any city or place, or otherwise, or having or being entitled to any property or profits to her sole or separate use, shall be chargeable to such and the like duties, and in like manner, except as hereinafter is mentioned, as if she were actually sole and unmarried: Provided always, that the profits of any married woman living with her husband shall be deemed the profits of the husband, and the same shall be charged in the name of the husband, and not in her name, or of her trustee: Provided also, that any married woman living in Great Britain,[2] separate from her husband, whether such husband shall be temporarily absent from her or from Great Britain,[2] or otherwise, who shall receive any allowance or remittance from property out of Great Britain,[2] shall be charged as a feme sole if entitled thereto in her own right, and as the agent of the husband if she receive the same from or through him, or from his property or on his credit.

Commissioners to summon assessors;

46. [[1]And be it enacted, that] for the ordering, raising, and levying the said duties the respective Commissioners for General Purposes at the first meeting to be held under this Act, or at a meeting to be appointed for that purpose, shall direct their precepts to such persons as shall have been appointed assessors for the execution of this Act, or in case no such appointment shall have been made, then to the assessors for the land tax or the duties of assessed taxes in their respective districts, requiring them to appear before the said Commissioners at such time and place as they shall appoint; and on the appearance of such assessors the said Commissioners shall ad-

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[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

[2] Now the United Kingdom, see the Income Tax Act, 1853 (16-7 V. c. 34).

minister to them the oath required by this Act to be taken by them, and issue to them their warrants of appointment as assessors in the execution of this Act, signed by such Commissioners, together with such instructions duly filled up as shall be necessary for carrying this Act into execution; and the said assessors shall duly serve and deliver, in the respective parishes or places for which they may be appointed, as well the notices hereinafter particularly directed to be served by them, as also all other notices and precepts, by whomsoever signed, which are or may be directed or required to be given by or in pursuance of this Act; and the said assessors shall duly verify the service of all such notices and precepts.

to administer oaths to them and deliver to them their instructions.

Assessors to serve notices and precepts.

47. [[1]And be it enacted, that] the assessors to be appointed to execute this Act shall, within the time and in the manner directed by the precept of the Commissioners for General Purposes, cause general notices to be affixed on or near to the door of the church or chapel and market house or cross (if any) of the city, town, parish, or place for which such assessors act; and if such city, town, parish, or place shall not have a church or chapel, or market house or cross, then on the church or chapel nearest to such city, town, parish, or place, requiring all persons who are by this Act required to make out and deliver any list, declaration, or statement to make out and deliver to the respective assessors or Commissioners, or to their clerk, at their respective offices to be described in such notice, and as therein directed, all such lists, declarations, and statements accordingly, within such time as shall be limited by such precept, and which shall not in any case be later than twenty-one days from the date of such precept; and such general notices shall, when the same shall be affixed as aforesaid, be deemed sufficient notice to all persons resident in such city, town, parish, or place, and the affixing of the same in manner aforesaid shall be deemed good service of such notice; and the said respective assessors shall cause the said notices to be from time to time replaced, if necessary, for the space of ten days before the time required for the delivery of such lists, declarations, and statements as aforesaid; and every person wilfully tearing, defacing, or obliterating any such notice so affixed shall forfeit any sum not exceeding twenty pounds.

Assessors to fix general notices on church doors requiring persons to deliver lists.

48. Provided always, [[1]and be it enacted,] that the said assessors shall, within the time directed by the precept of the said Commissioners, give notice to every person chargeable to the said duties in respect of any property or profits situate or arising within the limits of the said places where such assessors shall act, or leave such notice at his dwelling house or place of residence, or on the premises to be charged by such assessment within such limits, requiring every such person to prepare and deliver, in manner directed by this Act, all such lists, declarations, and statements as they are respectively required to do by this Act, within such time as shall be limited by such precept; and if any person residing within any parish or place at the time such general notice as aforesaid shall be given, or to whom such notice shall be personally given, or at whose dwelling house or place of residence the same shall be left, or if any person occupying any property or engaged in any concern within such limits, on whom such notice shall be served in manner aforesaid, or for whom such notice shall be left on the premises to be charged as aforesaid, after notice thereof, shall refuse or

Assessors to deliver notices at the houses of persons chargeable, who are to deliver statements.

[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

neglect to make out such lists, declarations, or statements as may be applicable to such person, and as the case may require, and deliver the same in manner directed by this Act, within the time limited in such notice, then such Commissioners shall forthwith issue a summons under their hands to such person making default as aforesaid, in order that the penalty for such refusal or neglect may be duly levied; and the said Commissioners shall moreover proceed to assess or cause to be assessed every person making such default in the manner herein directed.

Lists and statements, where to be delivered.

49. [[1]And be it enacted, that] every such list, declaration, or statement of the profits to be charged as aforesaid shall be delivered to the assessor of the same parish or place, except statements containing the amount of profits chargeable under Schedule (D.) of this Act, in such cases where the Commissioners acting for such parish or place shall have caused to be inserted in the notice that an office is opened for the receipt of statements of profits, and a proper person appointed to receive the same, and the time and place of attendance, in which cases the delivery of such statements to be charged under the said Schedule (D.) shall be made at such office to the person there appointed to receive the same: Provided always, that in cases where the parties to be charged under the said Schedule (D.) shall give notice of their desire to be assessed for the said duties by the Commissioners for Special Purposes, such statements of profits chargeable under the said Schedule (D.) shall be delivered, together with such notice, to such assessor as aforesaid, to be by him transmitted to the inspector or surveyor of the district.

Persons to deliver in lists of the names of lodgers, inmates, and others.

50. [[1]And be it enacted, that] every person, when required so to do by any notice given in pursuance of this Act, shall, within the period to be mentioned in such notice, prepare and deliver to the assessor of the parish or place where such person shall reside a list in writing, containing to the best of his belief the proper name of every lodger or inmate resident in his dwelling house, and of other persons chiefly employed in his service, whether resident in such dwelling house or not, and the place of residence of such of them as are not resident in such dwelling house, and also of any such lodger or inmate who shall have any ordinary place of residence elsewhere at which he is entitled, under the regulations of this Act, to be assessed, who shall be desirous of being so assessed at such place of ordinary residence; which lists shall be signed by the respective parties delivering the same, and shall severally be made out in such form as shall be directed under the authority of this Act: Provided always, that no person required by this Act to deliver a list of lodgers, inmates, or other persons aforesaid shall be liable to the penalties hereinafter mentioned, or either of them, for any omission of the name or residence of any person in his service or employ, and not resident in his dwelling house, if it shall appear to the Commissioners for executing this Act, on inquiry before them, that such person is entitled to be exempted from the payment of all and every the duties hereby granted.

Omission of persons not resident in their dwelling houses, if exempted from duty, not to be subject to penalty.

Persons acting for others to deliver in lists in order to the duty being duly charged.

51. [[1]And be it enacted, that] every person who shall be in the receipt of any money or value, or the profits or gains arising from any of the sources mentioned in this Act, of or belonging to any other person, in whatever character the same shall be received, for which such other person is chargeable under the regulations of this Act, or would be so chargeable if he were

[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

resident in Great Britain,[1] shall within the like period prepare and deliver, in manner before directed, a list in writing, in such form as this Act requires, signed by him, containing a true and correct statement of all such money, value, profits, or gains, and the name and place of abode of every person to whom the same shall belong, together with a declaration whether such person is of full age, or a married woman living with her husband, or a married woman for whose payment of the duty hereby charged on her the husband is not accountable by this Act, or resident in Great Britain,[1] or an infant, idiot, lunatic, or insane person, in order that such person, according to a statement, to be delivered as herein mentioned, may be charged either in the name of the person delivering such list, if the same shall be so chargeable, or in the name of the person to whom such property shall belong, if of full age, and resident in Great Britain,[1] and the same be so chargeable by this Act; and every person acting in such character jointly with any other person shall deliver a list of the names and places of abode of every person joined with him at the time of delivering such list, and to the same person to whom such list shall be delivered.

Statements to be delivered of the annual value of property and amounts of profits.

52. [[2]And be it enacted, that] every person chargeable under this Act shall, when required so to do, whether by any general or particular notice given in pursuance of this Act, within the period to be mentioned in such notice as aforesaid, prepare and deliver to the person appointed to receive the same, and to whom the same ought to be delivered, a true and correct statement in writing in such form as this Act requires, and signed by the person delivering the same, containing the annual value of all lands and tenements in his occupation, whether the same be situate in one or more parish or parishes, and the amount of the profits or gains arising to such person from all and every the sources chargeable under this Act, according to the respective schedules thereof, which amount shall be estimated for the period and according to the respective rules contained in the respective schedules of this Act; to which statement shall be added a declaration, that the same is estimated on all the sources contained in the said several schedules, describing the same, after setting against or deducting from such profits or gains such sums, and no other, as are allowed by this Act; and every such statement shall be made exclusive of the profits and gains accrued or accruing from interest of money, or other annual payment arising out of the property of any other person, for which such other person ought to be charged by virtue of this Act.

Trustees and agents of persons incapacitated or not resident in Great Britain to be charged.

53. [[2]And be it enacted, that] every person who shall act in any character as aforesaid for any other person, who by reason of any such incapacity as aforesaid, or by reason of his not being resident in Great Britain,[1] cannot be personally charged by virtue of this Act, shall also, within the like period, deliver to the person appointed to receive the same under this Act, and to whom the same ought to be delivered, and in the same district in which the person delivering such list ought to be charged on his own account, a true and correct statement in writing, signed by him, and to be made in such form as this Act requires, of the amount of the profits and gains to be charged on him on account of such other person, estimated during the period and according to the rules contained in the said respective schedules,

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[1] Now the United Kingdom, see the Income Tax Act, 1853 (16-7 V. c. 34).

[2] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

together with such declaration of the manner of estimating the same as aforesaid: Provided always, that where two or more such persons shall be liable to be charged for the same person, one return only shall be required, and such return shall be made by them jointly, or by one or more of them on behalf of himself or themselves and the rest of the persons so liable, and it shall be lawful for them to give notice in writing to the Commissioners acting in each district where they shall be called upon for such statement, in what parish or place, or parishes or places, they are respectively chargeable by this Act on their own account, and in which of the said parishes or places they are desirous of being so charged on the behalf of such other person for whom they so act in any of the characters before mentioned, and they shall be assessed accordingly by one assessment in such parish or place, provided any one of such persons shall be liable to be charged on his own account in such parish or place; and if more than one assessment shall be made on such persons, or any of them, on the same account, relief shall be granted from such double assessment by like applications to the Commissioners as are allowed in other cases by this Act.

Officers of corporations to prepare statements of profits and gains to be charged, estimated on the annual profits before dividend made.

54. [[1]And be it enacted, that] every such officer before described of any corporation, fraternity, fellowship, company, or society shall also, within the like period, prepare and deliver in like form and manner a true and correct statement of the profits and gains to be charged on such corporation, fraternity, fellowship, company, or society, computed according to the directions of this Act, together with such declaration of the manner of estimating the same as aforesaid; and such estimate shall be made on the amount of the annual profits and gains of such corporation, fraternity, fellowship, company, or society before any dividend shall have been made thereof to any other persons, corporations, or companies having any share, right, or title in or to such profits or gains; and all such other persons, and corporations or companies, shall allow out of such dividends a proportionate deduction in respect of the duty so charged: Provided always, that nothing hereinbefore contained shall be construed to require in such statement the inclusion of salaries, wages, or profits of any officer of such corporation, fraternity, fellowship, company, or society, otherwise chargeable under this Act: [[2]Provided also, that the statements of the several companies of the East India and South Sea shall be made exclusive of the dividends and the profits attached thereto, and to be divided amongst the proprietors of the respective stocks belonging to such companies.]

Proviso for statements of East India and South Sea Companies.

Penalty on persons neglecting to deliver in lists;

55. [[1]And be it enacted, that] if any person who ought by this Act to deliver any list, declaration, or statement as aforesaid shall refuse or neglect so to do within the time limited in such notice, or shall under any pretence wilfully delay the delivery thereof, and if information thereof shall be given, and the proceedings thereupon shall be had, before the Commissioners acting in the execution of this Act, every such person shall forfeit any sum not exceeding twenty pounds, and treble the duty at which such person ought to be charged by virtue of this Act, such penalty to be recovered as any penalty contained in this Act is by law recoverable, and the increased

if on information before Commissioners, 20*l.* and treble duty;

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[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

[2] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1874 (37-8 V. c. 96).

duty to be added to the assessment, but, nevertheless, subject to such stay of prosecution or other proceedings by a subsequent delivery of such list, declaration, or statement in the case following; (that is to say), if any trustee, agent, or receiver, or other person hereby required to deliver such list, declaration, or statement on behalf of any other person, shall deliver an imperfect list, declaration, or statement, declaring himself unable to give a more perfect list, declaration, or statement, with the reasons for such inability, and the said Commissioners shall be satisfied therewith, the said trustee, agent, or receiver, or other person as aforesaid, shall not be liable to such penalty in case the Commissioners shall grant further time for the delivery thereof; and such trustee, agent, receiver, or other person shall, within the time so granted, deliver a list, declaration, or schedule, as perfect as the nature of the case will enable him to prepare and deliver; and every person who shall be prosecuted for any such offence by action or information in any of her Majesty's courts, and who shall not have been assessed in treble the duty as aforesaid, shall forfeit the sum of fifty pounds.

if on information in a court of law, 50*l.*

56. Provided always [[1]and be it enacted] that no person to or on whom the assessor shall not have delivered or served a particular notice as aforesaid shall be liable to the penalties before mentioned, or either of them, for not delivering such statement as before required, if it shall appear to the Commissioners for executing this Act, on inquiry before them, that such person is entitled to be exempted from the payment of all and every the duties hereby granted.

Persons to whom notices have not been delivered not liable to penalty if exempt.

57. [[1]And be it enacted, that] the assessor shall make out an alphabetical list, and deliver the same to the inspector or surveyor of the district, containing the names of all persons to or on whom such notices have been delivered or served in pursuance of this Act, and the names of all persons having property or profits chargeable under this Act, within the limits of such assessor, distinguishing the persons who have duly made their returns, and the persons who have omitted to make such returns, and the persons who have given notice to be assessed by the Commissioners for Special Purposes, and also the persons who shall have been returned as lodgers or inmates within such limits, or as chargeable within but having a residence out of such limits; and if such assessor shall have neglected to give notice to any person to whom the same ought to be delivered, the inspector or surveyor may at any time afterwards cause such notice to be delivered to or served on such person, and may also from time to time cause the like notice to be delivered to or served on any person coming to reside in any parish or place after the expiration of such notices.

Assessors to make out a list of the persons on whom notices have been served.

Inspector or surveyor may serve notice on persons omitted.

58. [[1]And be it enacted, that] the assessor for every parish or place shall personally appear before the said Commissioners at such meeting as the said assessor shall be appointed to attend, and shall then and there make oath before the said Commissioners that the several notices required to be delivered to householders and occupiers, and also to lodgers and inmates, by this Act, have been duly served in the manner required by this Act, to the best of his knowledge, and that general notices to the effect mentioned in this Act have been duly affixed, in the manner hereby required, on such proper places within the city, town, or place for which such assessor shall act, as by this Act is required, and that the list delivered by him to the inspector or

Assessors to verify the delivery of notices, and the affixing of general notices.

[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

surveyor contains the name of every person to or on whom such notices ought to be delivered or served according to the directions of this Act, within the knowledge of such assessor; and every assessor who shall neglect to appear before such Commissioners, or refuse to make such oath, or who shall have omitted or neglected to return to such inspector or surveyor the name of any person whose name ought to be included in any such list as by this Act is required, shall forfeit any sum not exceeding twenty pounds.

Penalty, 20*l.*

Abstract to be made by the clerks of returns of statements delivered to Commissioners.

59. [[1]And be it enacted, that] the clerks to the said respective Commissioners shall with all convenient speed abstract the returns of statements delivered to such Commissioners by the assessors, or at their office by the respective parties, into books to be provided for that purpose, and according to such forms as shall be transmitted to them from the Head[2] Office for Stamps and Taxes, such abstracts to contain the names of the persons making such returns, and the several amounts of profits returned by them respectively, to be laid before and delivered to the said Commissioners; and all such returns shall be numbered and filed in the office of the said Commissioners, and carefully kept so long as the accounts of the said duties for such district, or any part thereof, shall remain unpaid to her Majesty; to all which books any inspector or surveyor who shall have taken the oath herein prescribed before the Commissioners acting for the same districts respectively shall have free access at all seasonable times, and shall take such copies thereof, or of such parts thereof, or extracts from the same, as he shall deem necessary in order to the due execution of this Act.

Inspectors may have access to and take copies from books containing such abstracts.

Duties in Schedule (A.) to be charged under the following rules.

60. [[1]And be it enacted, that] the duties hereby granted and contained in the said Schedule marked (A.) shall be assessed and charged under the following rules, which rules shall be deemed and construed to be a part of this Act, and to refer to the said duties, as if the same had been inserted under a special enactment.

SCHEDULE (A.).

No. I.—*General Rule for estimating Lands, Tenements, Hereditaments, or Heritages mentioned in Schedule* (*A.*).

Annual value to be ascertained by this rule, except as after stated.

The annual value of lands, tenements, hereditaments, or heritages charged under Schedule (A.) shall be understood to be the rent by the year at which the same are let at rack rent, if the amount of such rent shall have been fixed by agreement commencing within the period of seven years preceding the fifth day of April next before the time of making the assessment, but if the same are not so let at rack rent, then at the rack rent at which the same are worth to be let by the year; which rule shall be construed to extend to all lands, tenements, and hereditaments, or heritages, capable of actual occupation, of whatever nature, and for whatever purpose occupied or enjoyed, and of whatever value, except the properties mentioned in No. II. and No. III. of this Schedule.

No. II.—*Rules for estimating the Lands, Tenements, Hereditaments, or Heritages herein mentioned which are not to be charged according to the preceding General Rule.*

Manner of charging certain properties, &c.

The annual value of all the properties hereinafter described shall be understood to be the full amount for one year, or the average amount for one

[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

[2] Now the Chief Office of Inland Revenue.

year, of the profits received therefrom within the respective times herein limited:

First.—Of all tithes, if taken in kind, on an average of the three preceding years. Tithes in kind.

Second.—Of all dues and money payments in right of the church or by endowment, or in lieu of tithes (not being tithes arising from lands), and of all teinds in Scotland, on the like average: Ecclesiastical dues.

Third.—Of all tithes arising from lands, if compounded for, and of all rents and other money payments in lieu of tithes arising from lands (except rentcharges confirmed under the Act passed for the commutation of tithes), on the amount of such composition, rent, or payment for one year preceding: Tithes compounded.

The said duty in each case to be charged on the person entitled to such tithes or payments, or his lessee or tenant, agent or factor, except in the cases mentioned in the Fourth Rule of No. IV. of Schedule (A.):

Fourth.—Of manors and other royalties, including all dues and other services, or other casual profits (not being rents or other annual payments reserved or charged), on an average of the seven preceding years, to be charged on the lord of such manor or royalty, or person renting the same: Manors.

Fifth.—Of all fines received in consideration of any demise of lands or tenements (not being parcel of a manor or royalty demisable by the custom thereof) on the amount so received within the year preceding by or on account of the party; provided that in case the party chargeable shall prove, to the satisfaction of the Commissioners for General Purposes in the district, that such fines, or any part thereof, have been applied as productive capital, on which a profit has arisen or will arise otherwise chargeable under this Act, for the year in which the assessment shall be made, it shall be lawful for the said Commissioners to discharge the amount so applied from the profits liable to assessment under this rule: Fines.

Sixth.—Of all other profits arising from lands, tenements, hereditaments, or heritages not in the actual possession or occupation of the party to be charged, and not before enumerated, on a fair and just average of such number of years as the said Commissioners shall, on the statement of the party to be charged, judge proper (except such profits as may be liable to deduction in pursuance of the ninth or tenth rule in Number IV. hereinafter mentioned,) to be charged on the receivers of such profits, or the persons entitled thereto. Other profits from lands.

No. III.—*Rules for estimating the Lands, Tenements, Hereditaments, or Heritages hereinafter mentioned which are not to be charged according to the preceding General Rule.*

The annual value of all the properties hereinafter described shall be understood to be the full amount for one year, or the average amount for one year, of the profits received therefrom within the respective times herein limited: Manner of charging certain other properties.

First.—Of quarries of stone, slate, limestone, or chalk, on the amount of profits in the preceding year: Quarries.

Second.—Of mines of coal, tin, lead, copper, mundic, iron, and other mines, on an average of the five preceding years, subject to the provisions concerning mines contained in this Act: Mines.

Ironworks, &c.

Third.—Of ironworks, gasworks, salt springs or works, alum mines or works, waterworks, streams of water, canals, inland navigations, docks, drains, and levels, fishings, rights of markets and fairs, tolls, railways and other ways, bridges, ferries, and other concerns of the like nature, from or arising out of any lands, tenements, hereditaments, or heritages, on the profits of the year preceding:

Duty in last three rules, how to be charged.

The duty in each of the last three rules to be charged on the person, corporation, company, or society of persons, whether corporate or not corporate, carrying on the concern, or on their respective agents, treasurers, or other officers having the direction or management thereof, or being in the receipt of the profits thereof, on the amount of the produce or value thereof, and before paying, rendering, or distributing the produce or the value, either between the different persons or members of the corporation, company, or society engaged in the concern, or to the owner of the soil or property, or to any creditor or other person whatever having a claim on or out of the said profits; and all such persons, corporations, companies, and societies respectively shall allow out of such produce or value a proportionate deduction of the duty so charged, and the said charge shall be made on the said profits exclusively of any lands used or occupied in or about the concern:

Duty on mines to be charged on the company jointly, but any adventurer may claim to be charged separately, in order to set off his loss in one concern against his profits in another.

The computation of duty arising in respect of any such mine carried on by a company of adventurers shall be made and stated jointly in one sum; provided that if any adventurer shall declare his proportion or share in such concern, in order to a separate assessment, it shall be lawful to charge such adventurer separately, and nothing herein contained shall be construed to restrain any adventurer so separately assessed from deducting or setting against his profits acquired in one or more of such concerns his loss sustained in any other of the said concerns, over and above the profits thereof, provided that such loss shall not exceed the proportion of such adventurer which shall have been duly proved by the company in their computation of duty, and shall have been allowed by the respective Commissioners, and in every such case one assessment only shall be made on the balance of such profit and loss of the adventurer so separating his account in the parish or place where such adventurer shall be chargeable to the greatest amount, and the amount of each person's share so proved and allowed shall be deducted from the general assessment of the company or companies to which such adventurer shall belong, and the respective Commissioners shall cause the assessments on the said companies to be rectified as the case may require; and the certificate of the Commissioners making such separate assessment shall be an authority to the Commissioners acting in another district to cause the assessments on the respective companies to which such assessment shall belong to be rectified; and in case such loss shall arise in a different district than where such separate assessment shall be to be made, the certificate of the Commissioners acting for such other district of the amount of such loss, and the proportion of such adventurer therein, shall be proof of the deduction to be made by the Commissioners making such assessment.

No. IV.—*Rules and Regulations respecting the said Duties.*

First.—All properties chargeable to the duties in Schedule (A.) shall be charged in the parish or place where the same are situate, and not elsewhere, except as hereinafter is excepted: To be charged in the parish: Except canals, railways, &c., which are to be charged where the general accounts are made up.

Provided that the profits arising from canals, inland navigations, streams of water, drains, or levels, or from any railways or other roads or ways of a public nature, and belonging to or vested in any company of proprietors or trustees, whether corporate or not corporate, may be stated in one account, and charged in the city, town, or place at or nearest to the place where the general accounts of such concern shall have been usually made up; and it shall be lawful for the said proprietors or trustees, having paid the duties so chargeable, either to deduct a just proportion thereof from the interest payable to the creditors of the said properties, or any of them, or to pay such interest in full, without making any such deduction; and it shall be lawful for the said creditors to receive such interest in full, and they shall not be liable thereupon to the penalty hereinafter contained: Duties may be deducted from interest payable to creditors.

Provided also, that the profits arising from any manor or royalty which shall extend into different parishes may be assessed in one account in the parish where the court for such manor or royalty shall have been usually held: Provided also, that the profits arising from all fines received by the same person, body politic or corporate, or company, may be assessed in one account, where the person to be charged under the regulations of this Act shall reside: Manors extending into different parishes, and fines, where to be charged.

Second.—All lands occupied by the same person shall be brought into every account thereof required to be delivered by such person under this Act, whether the same shall be occupied by such person as owner or tenant, or as tenant under distinct owners, or shall be situate in the same or in different parishes or districts, but the charge thereon shall be in each parish or district in proportion to the value of the property situate therein, of which proportions the occupier shall be required to deliver an account in each parish wherein any part of such lands is situate, and a separate estimate shall be given of lands in the same occupation belonging to distinct owners; and if any occupier of lands situate in different parishes or places shall wilfully omit to deliver an account of the lands so occupied in each parish or place, although such occupier may not reside in one or more of such parishes or places, he shall be charged for the lands so omitted at treble the rate contained in this Act, over and above the penalty herein imposed: Lands in the same occupation to be charged according to the parishes. Proportions in each parish, and belonging to distinct owners, to be stated.

Provided always, that lands held under the same demise, or in the occupation of the same person as owner, although situate in different parishes, but wholly in the same district of Commissioners, may be charged in either parish, at the discretion of the said Commissioners, if they shall be satisfied that the proportion in each parish, either in respect of quantity, rent, or value of the said lands, cannot be ascertained; and if the said lands extend into different districts of Commissioners, then the assessment shall be made in that district where the occupier of such lands doth reside: Lands in different parishes to be charged in either where the proportions cannot be ascertained.

Third.—For any dwelling house in the occupation of a tenant which, with the buildings or offices belonging thereto and the land occupied therewith, shall be under the annual value of ten pounds, and for all lands Houses under 10*l.* charged on landlords.

and tenements let to any tenant for a less period than one year, the assessment thereupon shall be made on the landlord, but so as not to impeach the remedy of recovery of the duty from the occupier, in default of payment by the landlord:

Tithes may be charged on occupiers of land.

Fourth.—For any compositions, rents, or other payments in lieu of tithes, the assessment thereupon may, if the Commissioners think fit, be made on the respective occupiers of the lands from which such tithes arise, or on the respective persons liable to the payment of such compositions, rents, or other payments; and the said Commissioners may direct notices to be delivered to such persons respectively, for the purpose of obtaining returns of the value of such compositions, rents, and payments subject to the like penalties and under the regulations of this Act for returns of the annual value of lands:

Mines failing, how to be charged.

Fifth.—If any mine, enumerated in the Fifth Rule, No. III., of this Schedule, has, from some unavoidable cause, been decreased and is decreasing in the annual value thereof, so that the average of five years will not give a fair and just estimate of the annual value thereof, it shall be lawful, after due proof before the Commissioners for General Purposes in the district where such mine shall be situate, to compute such annual value on the actual amount of such profits and gains in the preceding year ending as aforesaid, subject to such abatement on account of diminution of duty within the current year as is herein provided in other cases; and if any such mine shall, from some unavoidable cause, have wholly failed, it shall be lawful for the said Commissioners, on due proof thereof, wholly to discharge any assessment made thereon:

If failed, the assessment may be discharged.

Mines to be charged where situate or produce manufactured.

Provided always, that whenever any such mine shall be situate, or the produce thereof shall be manufactured, in any place other than where the produce thereof shall be sold, the profits arising therefrom shall be assessed and charged in the parish and district where the said mine is situate, or where the produce thereof is manufactured, and not elsewhere:

Duties in certain cases to be estimated according to profits accrued since commencement of possession.

Sixth.—If in estimating the value of any of the properties enumerated in No. II. or No. III. of this Schedule as before mentioned, it shall appear that the account required by the said rules cannot be made out by reason of the possession or interest of the party to be charged thereon having commenced within the time for which the account is directed to be made out, the profits of one year shall be estimated in proportion to the profits received within the time elapsed since the commencement of such possession or interest:

Houses of foreign ministers charged on landlord.

Seventh.—The duty to be charged under this schedule, in respect of any house or tenement occupied by any accredited minister from any foreign prince or state, shall be charged and paid by the landlord or person immediately entitled to the rent of the said house or tenement:

Official houses charged on the occupiers.

Eighth.—The duty to be charged in respect of any house, tenement, or apartment belonging to her Majesty, in the occupation of any officer of her Majesty, in right of his office or otherwise, (except apartments in her Majesty's Royal Palaces,) shall be charged on and paid by the occupier of such house, tenement, or apartment, upon the annual value thereof:

Occupiers to recover from

Ninth.—The occupier of any lands, tenements, hereditaments, or heritages, being tenant of the same, and paying the said duties, shall deduct so

much thereof in respect of the rent payable to the landlord for the time being (all sums allowed by the Commissioners being first deducted) as a rate of seven-pence for every twenty shillings thereof would by a just proportion amount unto, which deduction shall be made out of the first payment thereafter to be made on account of rent; and the receivers of her Majesty, and all landlords, both mediate and immediate, their respective heirs, executors, administrators, and assigns, according to their respective interests, and their respective receivers or agents, shall allow such deduction upon receipt of the residue of the rent, under the penalty herein contained; and the tenant paying the said assessment shall be acquitted and discharged of so much money as if the same had actually been paid unto the person to or for whom his rent shall have been due and payable; and the occupier of lands charged on the amount of any composition, rent, or payment for tithes arising therefrom, and paying the said duties, shall be entitled to make the like deduction from such composition, rent, or payment, on paying the same:

landlord, according to the rate, by deducting the duty out of the rent.

Tenth.—Where any such lands, tenements, or hereditaments are subject or liable to the payment of any rent-charge, whether under the Act passed for the commutation of tithes, or otherwise, or any annuity, fee-farm rent, rent service, quit rent, feu duty, teind duty, stipends to licensed curates, or other rent or annual payment thereupon reserved or charged, the landlord, owner, or proprietor by whom any deduction shall have been allowed as aforesaid, and the owner or proprietor being also occupier and charged to the said duties, shall deduct and retain out of every such rent-charge, annuity, fee-farm rent, rent service, quit rent, feu duty, teind duty, stipend, or other rent or annual payment aforesaid, so much of the said duties or payments on account of the same, (the just proportion of the sums allowed by the Commissioners in the cases authorized by this Act being first deducted), as a like rate of seven-pence for every twenty shillings on such rent-charge, annuity, fee-farm rent, rent service, quit rent, feu duty, teind duty, or stipend, or other rent or annual payment aforesaid, respectively, shall by a just proportion amount unto; and the receivers of her Majesty, and all persons who shall be any ways entitled unto such rents, duties, stipends, or annual payments, their receivers, deputies, or agents, are hereby required to allow such deduction, upon the receipt of the residue of such moneys as shall be due and payable for such rents, duties, or annual payments, without any fee or charge for such allowance, and under the penalty herein contained; and the landlord, owner, proprietor, and occupier respectively, being charged as aforesaid, or having allowed such deduction, shall be acquitted and discharged of so much money as if the same had actually been paid unto such person to whom such rent-charge, annuity, fee-farm rent, rent service, quit rent, feu duty, teind duty, stipend, or other rent or annual payment aforesaid, shall have been due and payable:

Landlords may recover from others having interest at the like rate.

Eleventh.—Where any mortgagee or creditor in any heritable bond or wadset shall be in the possession of the lands, tenements, hereditaments, or heritages mortgaged or secured, such mortgagee or creditor shall be chargeable as occupier when in the actual occupation of the same, and when not in the actual occupation of the same shall be liable to such deduction as any other landlord would be; and upon the settlement of accounts between such mortgagee or other creditor as aforesaid,

Mortgagees in possession liable.

and the mortgagor or debtor, the duty payable in respect of the amount of the interest payable upon such mortgage or other debt as aforesaid shall be taken and allowed as so much money received by such mortgagee or other creditor as aforesaid on account of such interest:

Owner dying, how the duty is to be paid.

Twelfth.—Where any lands, tenements, hereditaments, or heritages shall be occupied by the owner at the time the assessment shall be made, who shall die before payment of the duty, the heirs, executors, administrators, or assigns, or other person who on such death may become entitled to the rents and profits thereof, shall be liable to the payment of all arrears of the said duty due at the time of such death, and to all subsequent instalments for that year, according to their respective interests, without any new assessment:

Houses divided into distinct properties.

Thirteenth.—Where any house shall be divided into distinct properties, and occupied by distinct owners or their respective tenants, such properties shall be charged distinct on the respective occupiers:

Deductions not to be allowed, unless authorized by the Act, and an account thereof delivered to the assessor.

Fourteenth.—No deduction from the estimate or assessment on any lands, tenements, hereditaments, or heritages shall be allowed in any case not authorized by this Act, nor unless an account in writing, signed by the occupier thereof, or by the party claiming such deduction, stating the nature and amount thereof, shall have been delivered to the assessor within the time and pursuant to the notice delivered by such assessor; and if any such deduction shall be made or allowed contrary to this Act, or without such account in writing as aforesaid, it shall be lawful for the surveyor or inspector to surcharge the assessment, and to charge therein a sum equal to the amount of duty by which the assessment shall have been diminished on occasion of such deduction, which surcharge shall not be annulled or vacated under any pretence whatever, but shall stand part of the assessment.

Deductions.

No. V.—*Particular Deductions and Allowances in respect of the Duties under Schedule* (*A.*).

Tenths, &c.

First.—For the amount of the tenths and first fruits, duties, and fees on presentations paid by any ecclesiastical person within the year preceding that in which the assessment shall be made:

Procurations, &c.

Second.—For procurations and synodals paid by ecclesiastical persons on an average of seven years preceding that in which the assessment shall be made:

Repairs of chancels.

Third.—For repairs of collegiate churches and chapels, and chancels of churches or of any college or hall in any of the universities of Great Britain,[1] by any ecclesiastical or collegiate body, rector, vicar, or other person bound to repair the same, on an average of twenty-one years preceding as aforesaid, or as nearly thereto as can be produced:

Parochial rates on rent-charge for tithes.

Fourth.—For the parochial rates, taxes, and assessments charged upon or in respect of any rent-charge confirmed under the Act passed for the commutation of tithes, on the amount paid in the year in which the assessment shall be made:

Land tax.

Fifth.—For the amount of the land tax charged on lands, tenements, hereditaments, or heritages under the said Act passed in the thirty-eighth year of the reign of King George the Third, where the charge thereon shall not have been redeemed:

[1] Now the United Kingdom, see the Income Tax Act, 1853 (16-7 V. c. 34).

Sixth.—For the amount charged on lands, tenements, hereditaments, or heritages by a public rate or assessment in respect of draining, fencing, or embanking the same: Drainage, &c.

In all which cases there shall be allowed (unless such payments, or any part thereof, shall be made by a tenant) such sum of money as a like rate of seven-pence for every twenty shillings of the sums paid would by a just proportion amount unto; and the sum so allowed shall be deducted from the assessment to be made on the property charged with such payments, except in the cases hereinafter otherwise provided for; (that is to say,) Rate of deduction.

Provided always, that the allowances to be granted in pursuance of the first, second, or third case may be granted to the ecclesiastical or collegiate body, rector, vicar, or other person aforesaid liable to the charges therein mentioned, in one sum, either by deducting the same from the assessment upon him (if any), or by certificate; provided that no abatement or deduction shall be made from any assessment for the allowances granted in pursuance of any of the cases mentioned in this rule in respect of any such charges or payments as aforesaid, payable out of any rent-charge confirmed under the Act passed for the commutation of tithes, but such allowances shall be granted by certificate in the manner hereinafter directed. Allowances to ecclesiastical bodies, &c., how to be made.

61. [[1]And be it enacted, that] the person entitled to any of the allowances mentioned in the next preceding rule, which are directed or authorized to be made by certificate, and which shall not have been made by deduction or abatement from the assessment, shall claim such allowance at any time after the expiration of the year of assessment, before the Commissioners for General Purposes of the district in which the property charged with the payments and charges mentioned in the said rule shall be situate; and the said Commissioners, upon due proof before them that the claimant is entitled to such allowance, shall certify the particulars and amount thereof to the Commissioners for Special Purposes at the Head[2] Office for Stamps and Taxes in England, and thereupon the said last-mentioned Commissioners shall grant an order for the payment of such allowance, directed to the Receiver General of [[3]Stamps and Taxes], or to an officer for receipt or collector of the duties granted by this Act, or to a distributor or sub-distributor of stamps, as may be most convenient for the party entitled to such allowance, and such receiver general or officer as aforesaid is hereby required, on production and delivery to him of such order, to pay the amount of such allowance to the party entitled thereto out of any money in the hands of such receiver general or officer arising from any duties placed under the management of the Commissioners of [[3]Stamps and Taxes], taking the receipt of the party entitled to such allowance for the same, by endorsement on such order. Mode of proceeding in order to the payment of certain allowances granted under No V., Schedule (A.).

No. VI.—*Allowances to be made in respect of the said Duties in Schedule (A.).*

For the duties charged on any college or hall in any of the universities of Great Britain,[4] in respect of the public buildings and offices belonging Allowances for colleges and halls in universities;

[1] The words in brackets are repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).
[2] Now the Chief Office of Inland Revenue.
[3] Now Inland Revenue, see the Income Tax Act, 1853 (16-7 V. c. 34), s. 9.
[4] Now the United Kingdom, see the Income Tax Act, 1853 (16-7 V. c. 34).

to such college or hall, and not occupied by any individual member thereof, or by any person paying rent for the same, and for the repairs of the public buildings and offices of such college or hall, and the gardens, walks, and grounds for recreation repaired and maintained by the funds of such college or hall:

hospitals, public schools, almshouses, and literary institutions.

Or on any hospital, public school, or almshouse, in respect of the public buildings, offices, and premises belonging to such hospital, public school, or almshouse, and not occupied by any individual officer or the master thereof, whose whole income, however arising, estimated according to the rules and directions of this Act, shall amount to or exceed one hundred and fifty pounds per annum, or by any person paying rent for the same, and for the repairs of such hospital, public school, or almshouse, and offices belonging thereto, and of the gardens, walks, and grounds for the sustenance or recreation of the hospitallers, scholars, and almsmen, repaired and maintained by the funds of such hospital, school, or almshouse, or on any building the property of any literary or scientific institution, used solely for the purposes of such institution, and in which no payment is made or demanded for any instruction there afforded, by lectures or otherwise; provided also, that the said building be not occupied by any officer of such institution, nor by any person paying rent for the same:

The said allowances to be granted by the Commissioners for General Purposes in their respective districts:

Rents of lands belonging to hospitals, public schools, and almshouses, or vested in trustees for charitable purposes.

Or on the rents and profits of lands, tenements, hereditaments, or heritages belonging to any hospital, public school, or almshouse, or vested in trustees for charitable purposes, so far as the same are applied to charitable purposes:

The said last-mentioned allowances to be granted on proof before the Commissioners for Special Purposes of the due application of the said rents and profits to charitable purposes only, and in so far as the same shall be applied to charitable purposes only:

The said last-mentioned allowances to be claimed and proved by any steward, agent, or factor acting for such school, hospital, or almshouse, or other trust for charitable purposes, or by any trustee of the same, by affidavit to be taken before any Commissioner for executing this Act in the district where such person shall reside, stating the amount of the duties chargeable, and the application thereof, and to be carried into effect by the Commissioners for Special Purposes, and according to the powers vested in such Commissioners, without vacating, altering, or impeaching the assessments on or in respect of such properties; which assessments shall be in force and levied notwithstanding such allowances.

Special Commissioners to certify allowances granted under No. VI., Schedule (A.), and order payment thereof.

62. [[1]And be it enacted, that] where any allowance mentioned in Number VI. of the said Schedule (A.) shall be granted by the Commissioners for Special Purposes, under the authority of this Act, they shall give a certificate thereof, together with an order for payment of the same, directed to the Receiver General of [[2]Stamps and Taxes], or to an officer for receipt or collector of the duties granted by this Act, or to a distributor or

[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

[2] Now Inland Revenue, see the Income Tax Act, 1853 (16-7 V. c. 34), s. 9.

sub-distributor of stamps in the manner herein provided with respect to allowances to be granted under Number V. of the said Schedule, and such allowance shall in like manner be paid to the party entitled thereto.

Duties in Schedule (B.) and rules deemed part of the Act.

63. [[1]And be it enacted, that] the duties hereby granted, contained in the Schedule marked (B.), shall be assessed and charged under the following rules, which rules shall be deemed and construed to be a part of this Act, and to refer to the said last-mentioned duties as if the same had been inserted under a special enactment.

SCHEDULE (B.).

No. VII.—*Rules for assessing and charging the Properties under Schedule (B.).*

To be charged in addition to Schedule (A.) on the same properties, except for dwelling houses distinct from farms, and for buildings occupied for trade or professions.

One eighth to be deducted from rent of tithe-free lands in England.

Lessees and occupiers of tithes to pay two-pence for every twenty shillings.

The duties last before mentioned shall be charged in addition to the duties to be charged under Schedule (A.) on all the properties in this Act directed to be charged to the said duties, according to the general rule in Number I. Schedule (A.) before mentioned, on the full amount of the annual value thereof estimated as by this Act is directed (except a dwelling house, and the domestic offices thereunto belonging, and which dwelling house and offices shall not be occupied, by virtue of one and the same demise, with a farm of lands for the purpose of farming such lands, or with a farm of tithes for the purpose of farming the same; and except warehouses or other buildings occupied for the purpose of carrying on a trade or profession); provided that [[2]in all cases where lands are subject to a rent-charge in lieu of tithes, under the Act passed for the commutation of tithes, and in all other cases where lands in England are not subject to tithes, or to any modus or composition real in lieu thereof, there shall be deducted out of the duties contained in this schedule a sum not exceeding one eighth part thereof; and in all cases where such lands are subject to a modus or composition real, and not subject to any tithes, there shall be deducted out of such duties so much thereof as, together with the like rate on such modus or composition real, shall not exceed one eighth part of such duties as aforesaid; and in all cases where such lands are subject to a modus or composition real in lieu of certain specific tithes, and also are subject to certain other specific tithes, or where such lands are free of certain specific tithes, and are subject to certain other specific tithes, the annual value of such lands shall, for the purpose of charging the duties under this schedule, be estimated at the rack rent at which the same would let by the year if wholly free from tithes, and there shall be deducted therefrom the amount or value of one eighth of the said duties chargeable on the said estimate, as in cases of tithe-free lands: Provided also, that any person being lessee and occupier of tithes or teinds taken in kind, or being the occupier of the lands from whence such tithes or teinds shall arise, and compounding for the same, shall be charged in respect of the occupation at the rate of two-pence for every twenty shillings of the annual value thereof, estimated as aforesaid: Provided also that] the several properties hereinafter described in Number VIII. shall be assessed and charged in manner therein mentioned.

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[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

[2] The part in brackets is repealed by the Finance Act, 1896 (59-60 V. c. 23).

No. VIII.—*Rules for estimating the Properties hereinafter next mentioned under Schedule (B.).*

Nurseries, market gardens, and hop grounds.

The profits arising from lands occupied as nurseries or gardens for the sale of the produce, and lands occupied for the growth of hops, shall be estimated according to the rules contained in Schedule (D.), and the duty shall be charged at the rate contained in the said schedule; and when the said duty shall have been so ascertained, the same shall be charged under Schedule (B.) as profits arising from the occupation of lands, except where the lands so occupied for the growth of hops shall be part of a farm held under one demise, or by the same person as owner, and shall not exceed one tenth part of such farm, in which case the duty thereon under this schedule shall be charged together in one sum as for a farm by the said general rule in Schedule (A.) mentioned.

No. IX.—*Rules for charging the said Duties under Schedules (A.) and (B.).*

To be paid by the occupier.

First.—The said duties, except where other provisions are made as aforesaid for estimating particular properties, shall be estimated according to the general rule contained in Schedule (A.), and shall be charged on and paid by the occupier for the time being, his executors, administrators, and assigns:

Who shall be deemed occupiers.

Second.—Every person having the use of any lands or tenements shall be taken and considered, for the purposes of this Act, as the occupier of such lands or tenements:

Assessments to be levied on the occupier. How paid on change of occupation.

Third.—The said several duties shall on each assessment thereof be levied on the occupier for the time being without any new assessment, notwithstanding any change in the occupation thereof: Provided that every tenant on quitting the occupation shall be liable for the arrears at the time of so quitting, and for such further portion of time as shall then have elapsed, to be settled and levied by the respective Commissioners, and repaid to the occupier by whom the same shall have been paid; and the executors or administrators of any tenant who shall die before the payment of such assessment shall be liable in like manner as the testator or intestate would have been if living: Provided also, that every tenant quitting before the time of making the assessment shall be liable for such portion of the year as shall have elapsed at the time of his so quitting, to be adjusted and settled by the respective Commissioners.

No. X.—*Rules for estimating the annual Value of Properties before described in Schedules (A.) and (B.) or either of them.*

Tenant's rates and taxes paid by landlord to be deducted from the rent.

First.—Where any landlord shall be subject to any covenant or agreement to pay or satisfy, out of the rent reserved on any lands or tenements, any parochial rates, taxes, or assessments which by law are a charge on the occupier, or any composition for tithes; or where any rector, vicar, or other person entitled to any rent or other annual payment to be made in lieu of tithes (except a rent-charge confirmed under the Act passed for the commutation of tithes,) or any composition for tithes, shall pay or satisfy out of the amount thereof any such parochial rates, taxes, or assessments charged on such tithes, rent, composition, or other annual payment aforesaid, then and in every such case the annual value shall be estimated for the purposes of this Act exclusive of such rates, taxes, or assessments, and of such composition for tithes, to be computed on

the amount thereof *bonâ fide* paid by such landlord or other person aforesaid in and for the year preceding the year of assessment; or where the owner shall be also occupier of such lands or tenements, and shall have paid any parochial rates, taxes, or assessments charged on the same, or any composition for tithes thereon, then the said annual value shall be also estimated exclusive of such rates, taxes, and assessments and composition for tithes, to be computed in like manner as aforesaid:

Landlord's rates and taxes paid by tenant to be added to the rent.

Second.—Where any tenant of lands or tenements shall be subject to any covenant or agreement to pay or satisfy any aids, taxes, rates, or assessments by law chargeable on or payable by the landlord, the amount thereof which shall have been *bonâ fide* paid by such tenant in and for the year preceding the year of assessment shall, in making the estimate for the purpose of charging the duty in respect of occupation, be added to the rent reserved, in case the same shall have been let within the period of seven preceding years, and if not so let, the estimate shall be made according to the general rule in Schedule (A.), with the like addition thereto of the amount of such payment:

Amount of rent depending on price of corn or grain, how to be ascertained.

Third.—Where the amount of rent of lands or tenements reserved in money shall depend in the whole or in part on the price of corn or grain, the estimate for the purpose of charging the duties in Schedule (A.) shall be made on the amount payable according to the average prices or fiars fixed in the year preceding the year appointed for payment of the duty, and in the same manner by which such rents have usually been ascertained between the landlords and tenants; but where the whole or a part of the rent shall be reserved in corn or grain, then the said estimate shall be made on the like average price or fiar computed on the quantity of corn or grain delivered or to be delivered in the year appointed for payment of the duty; or where such computation cannot be made, the estimate aforesaid may be made on the annual value of such lands estimated according to the said general rule:

Amount of rent depending on produce.

Fourth.—Where the amount of rent reserved on lands or tenements shall depend on the actual produce thereof, either in respect of the price or quantity of such produce, the estimate for the purpose of charging the duties in Schedule (A.) shall be made on the amount or value of such produce in the year preceding the year appointed for payment of the duty, according to the prices fixed and according to the quantity produced in that year, by the same rules and in the same manner by which such rents have usually been ascertained between the proprietors and their lessees or tenants, and where the prices or fiars shall vary in the two years of assessment, or the amount of produce shall vary in those years, the assessment shall, on appeal or surcharge, be rectified accordingly:

In Scotland the estimate to be made according to the general rule in Schedule (A.).

Fifth.—Every estimate of such property in Scotland shall be made without reference to the cess or tax roll or valued rents heretofore used in Scotland, or any stent thereon, and shall be made according to the general rule contained in Schedule (A.) to the best of the belief and judgment of the Commissioners, assessors, and others employed in charging the said several duties.

Assessment of lands and tenements,

64. [[1]And be it enacted, that] upon every account of the annual value of the several properties aforesaid, to be charged under Schedules (A.) and (B.)

[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

on what amount to be made by the assessor.

delivered in manner before directed to the assessor, he shall make an assessment of the said property on the amount of the sum ascertained by such account, if he shall be satisfied with such amount; but if he shall not be satisfied therewith, or if no such account shall have been returned, or if the occupier or other person aforesaid shall not be resident within the limits of the district of such assessor, and no such return shall have been made, then the said assessor shall estimate, to the best of his judgment, the annual value of the said property of which no sufficient account shall have been delivered,

Where the annual value cannot be otherwise ascertained.

and make an assessment of the same accordingly; and in doing so it shall be lawful for such assessor in every case relating to lands or tenements to be estimated according to the said general rule by the annual value thereof, where such annual value cannot be otherwise ascertained, and he is hereby required in every such case to make such assessment according to the following rules; (*videlicet,*)

No. XI.

To be made on the same sums if rated to the poor on full value.

First.—Where the last rate made for the relief of the poor in any parish or place shall be made throughout by a pound rate on the annual value, as the same would be estimated according to Schedule (A.), the assessment thereon to be made under this Act shall be made on the same sums respectively as in such rate:

To be increased to full value if made on proportionate sums.

Second.—Where the said rate shall be made throughout by such pound rate on any proportionate part of the annual value as aforesaid, the proportion thereof shall be observed as in the said rate, but the assessment thereon to be made under this Act shall be made at the same sums respectively as they would have been estimated at if the said rate had been made on the full amount of such annual value:

If in different proportions, the rate for lands to be the guide throughout.

Third.—Where properties of different kinds shall be rated in the said rate according to different proportions of the value thereof as aforesaid, or shall be rated therein at different rates of such value, but nevertheless the properties of the same kind shall be rated in a due proportion to each other, both as to the value and rate of charge, in every such case the rule of rating lands, both as to the value and the rate of charge, shall, in making the assessment under this Act, be observed throughout, as well with respect to such lands as to the other properties therein rated, so far as relates to such rates as shall be made either on the full value of the properties or on any proportionate part thereof:

Where the proportions of the rate are not known.

Fourth.—In all cases not falling within the three preceding rules, but nevertheless where the properties shall appear to the assessor to be rated in the said rate in the same proportion to each other, though the proportion of such rate to the value of the property rated be not known, and the assessor is able to ascertain the rackrent of all or any of the properties which shall have been so let within the period of seven years preceding within the limits of the parish or place where the said assessors shall act, he shall make an estimate of such properties on the amount of such rents respectively, and the amount contained in the estimates so made shall form the basis on which the estimates of other properties, of which the rackrent shall not have been so ascertained, shall be made, and he shall make his estimate of all other property in a sum bearing the same proportion, as near as the same can be computed, to the amount of such first estimates, as the sums at which all such other properties of which the rent has been so ascertained are valued at in such rate bear to the sum charged in the said rate on the said properties

first estimated; and he shall apportion the sum so estimated on such other properties in the same proportion, as near as the same can be computed, as they are respectively rated at in such rate, and shall make his assessment under this Act accordingly; and in cases where the same rule of proportion shall not have been observed in rating different kinds of property, then the assessor shall make an estimate as above directed upon each of such kinds of property for the purpose of forming a basis on which the estimates of other properties of the same kind may be made.

Assessor allowed to estimate dwelling houses, &c. under 10*l.* without a return.

65. Provided always, [[1]and be it enacted,] that where any dwelling house or tenement, together with the offices, gardens, and lands occupied therewith, or any lands separately occupied, shall be under the annual value of ten pounds, and the assessor shall be able to estimate the said value, either by the rules before mentioned, or from his own knowledge, or otherwise, it shall be lawful for him to estimate such property accordingly, to the best of his judgment, and to make an assessment thereon, without requiring a return of the annual value as aforesaid, unless the surveyor or inspector shall object to such estimate, and shall require a notice for that purpose to be delivered; and if any assessor, not having given such notice, shall neglect to estimate the true annual value of the said properties, and to assess the same according to this Act, he shall forfeit any sum not exceeding ten pounds.

Assessors may make their assessments of lands on the production of the lease by the tenant, according to the reserved rent.

66. [[1]And be it enacted, that] in case any tenant at rackrent shall produce to the assessor the lease or agreement in writing under which he immediately holds any premises to be charged as aforesaid according to the general rule, the production of which lease or agreement every such assessor is hereby authorised to demand whenever the same shall appear to him necessary; and in case it shall appear by such lease or agreement that the same premises shall have been let within the period of seven preceding years, and no other consideration in money than the rent reserved shall be contained in such lease or agreement, it shall be lawful for such assessor to make his assessment according to such rent, anything before contained to the contrary notwithstanding; but such assessment shall not be binding, in case it shall appear to the Commissioners that the said lease or agreement doth not express the full consideration, whether in money or value, for the demise, or the rent *bonâ fide* paid for the same, or that the rent reserved is less than the rackrent on occasion of repairs or improvements done or to be done by the lessee or assigns, or is made in any other respect with intent to conceal the annual value of such premises, or to diminish the estimate to be made thereon, or hath been assigned to such tenant, or any former tenant, for any consideration in money or value paid or agreed to be paid: Provided always, that regard shall be had to the cases before mentioned, where the amount of the reserved rent shall be increased by reason of any covenant or agreement by the landlord to discharge the tenant's taxes, rates, assessments, or duties before mentioned, or where the same shall be decreased by reason of any covenant or agreement by the tenant to discharge the landlord's taxes, rates, or assessments, or on occasion of any expenses incurred or to be incurred by the lessee or assigns, whether mentioned or not mentioned in such lease or agreement, and to the deductions to be made on account of any aid or

If such lease shall be *bonâ fide* at rackrent.

[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

Rules to be observed in assessing land at reserved rent, and for improvement.

public rate or assessment before described: Provided also, that upon every demise for years of lands made or to be made in consideration of a rent reserved, and also in consideration of certain improvements to be made in the lands demised at the proper cost and charge of the lessee or tenant, if it shall be proved to the satisfaction of the Commissioners for General Purposes acting for the division where such lands are situate that the rent reserved hath been settled on the estimate of the medium annual value of the said lands, computed on an average for the whole term granted in expectation of the progressive improvement of the said farm at the cost and charge of the said lessee or tenant, and the said annual rent is fixed and made payable to the same amount in each year on the said average, whereby the said rent so estimated and made payable did or doth exceed the just annual value of the said lands as the same were or are worth to be let at rackrent at the commencement of the term granted by the said demise, then and in such case the estimate of the annual value of the said lands, and the assessment thereupon, shall be made and computed according to the following rules; (that is to say,) in regard that the rent reserved hath been settled on a fair average of the annual value of the said lands, computed on the whole of the term so granted, the said Commissioners, on due proof of the circumstances before mentioned, shall cause the said duty payable in respect of the property in the said lands to be computed and charged on the amount of the rent so reserved and made payable as aforesaid, for each year of assessment, without variation, during the said term, subject nevertheless to such deductions as by this Act are allowed; and the said Commissioners shall also cause the said duty payable in respect of the occupation of the said lands to be computed and charged on the full and just value of the said lands, to be ascertained at the times and in manner hereinafter mentioned; (that is to say,) on all such demises made before the passing of this Act, the annual value of the said lands shall be the rackrent at which the same are worth to be let by the year, to be ascertained at the commencement of the first year of assessment after the passing of this Act, by a valuation to be made thereof under the powers and according to the directions herein contained, and to the satisfaction of the said Commissioners, which valuation shall be in force for the term limited for the continuance of this Act, if the said demise shall not sooner expire; and the amount ascertained by such valuation shall be deemed to be the rackrent at which the said lands are worth to be let for the said term, if the said demise shall not sooner expire, and the assessment thereupon shall in each year of the said term be made on the said valuation; and on all such demises to be made after the passing of this Act the annual value of the said lands shall be the rackrent at which the same are worth to be let by the year, to be ascertained at the commencement of the said demise, by a like valuation to be made thereof in manner aforesaid.

Tenants at rackrent under a parol demise, or not able to procure leases, to deliver an account of the value.

67. [[1]And be it enacted, that] in case any tenant at rackrent under any parol demise from year to year, within the period mentioned in the said general rule, or any tenant who, by reason of any mortgage or other contract, shall not have the custody or possession of or the power over any lease or agreement in writing under which he holds the premises demised within the said period, and who shall give reasonable proof to the Commissioners why he is unable to produce the same, shall deliver to the assessor an account

[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

in writing signed by such tenant of the actual amount of the annual rent reserved on such demise, such account so delivered shall be deemed a compliance with this Act, in all cases where he may be called upon under the authority of this Act to produce such lease or agreement; and it shall be lawful for such assessor to make his assessment according to such rent, anything before contained to the contrary notwithstanding; but such assessment shall not be binding in case it shall appear to the said Commissioners that the said account doth not express the full consideration for such demise, or the rent *bonâ fide* paid for the same, or that the rent reserved is less than the rackrent on occasion of any payments as aforesaid made or to be made by such tenant, or is made in any other respect with intent to conceal the annual value of the premises held under such demise, or to diminish the assessment to be made thereon: Provided always, that lands held for a longer period than seven years by any tenant under a demise from year to year, or at will, shall be estimated and assessed at the annual value thereof, unless the tenant shall show and prove to the satisfaction of the said Commissioners that the same lands are held under a demise which commenced by agreement made and a rent fixed within the period of seven years, on the determination of the former demise thereof, by due notice within the said period.

Lands held under a tenancy from year to year, or at will, to be rated by value, unless the rent be fixed on a demise within seven years.

68. [[1]And be it enacted, that] every person who shall wilfully deliver any such account as aforesaid which shall be false, or who shall wilfully refuse, neglect, or omit to produce any lease or agreement with intent to conceal the annual value of the premises therein comprised, or to diminish the estimate to be made thereon, shall forfeit the sum of twenty pounds, and shall be liable to be charged in treble the duty hereby directed to be charged as aforesaid, computed on the annual value of the premises held under such demise, estimated according to this Act; and the inspector and surveyor are hereby respectively required to surcharge the same, and the Commissioners are required to make an assessment accordingly.

Penalty on tenants delivering false accounts of the value of the premises, or concealing the true value thereof.

69. [[1]And be it enacted, that] every tenant of lands, tenements, or heritages in Scotland shall, within ten days after the assessor shall have left at his usual place of abode, or at any dwelling house or other place on the premises to be charged with the assessment, a note in writing requiring the same, produce to such assessor the tack or lease or other agreement or articles in writing under which such tenant holds such lands or tenements, or where the same shall not be in the power, custody, or possession of such tenant, or there shall be no such tack, lease, or agreement or articles, then he shall leave with such assessor, or at his dwelling house, within the time before mentioned, a note in writing of the actual rent annually reserved and payable, and of any other valuable consideration given or to be given to the landlord of such lands and tenements as a further consideration for such tenancy, under the penalty of treble the duty hereby chargeable thereon, in case of any wilful neglect to comply with such notice; and it shall be lawful for such assessor to make his assessment on the production of such lease or agreement or articles, according to the rent therein reserved and made payable; and in case of non-production of such lease or agreement or articles in writing, then upon the rent reserved or made payable, according to the account thereof delivered as aforesaid, if he shall be satisfied that the said

Tenants in Scotland to produce their leases on notice;

[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

lands, tenements, or heritages have been *bonâ fide* let at the reserved rent notified to him as aforesaid, without other valuable consideration; but in case such assessor shall not be satisfied with the notification given to him, or in case no such notification shall be given, then such assessor shall make the assessment as directed in the foregoing rules: Provided always, that if the farm occupied by such tenant shall be distant more than ten miles from the dwelling house of such assessor, it shall be competent to such tenant to lodge his lease or note in writing of the rent with the nearest justice of the peace, or with the clergyman of the parish where the farm is situated; and the said justice of the peace or clergyman respectively shall be obliged to show the said lease or note of the rent to the said assessor when required.

or leave them with a justice of peace, or clergyman in a certain case.

All properties to be assessed whether occupied or not..

70. [[1]And be it enacted, that] the said several duties shall be assessed on all lands, tenements, and hereditaments, whether occupied at the time of assessment or not; and so far as respects the duties chargeable under Schedule (A.), in case any lands charged to the said duties shall be unoccupied, and no distress can be found on the same at the time such duties shall be payable, it shall be lawful for the collector of the parish or place where the said lands are situate for the time being, at any time after, to enter upon the said lands when there shall be any distress thereupon to be found, and the distress to seize and sell, under the like powers as he might have distrained on the same lands if in the occupation of such person at the time the duties became due: Provided always, that the said duties, or either of them, shall not be levied on any house which shall be or become unoccupied for such year, or portion of the year, as the same shall be unoccupied, but the assessment thereupon for such year, or portion of the year, as aforesaid, shall, upon appeal, be discharged or diminished by the Commissioners, on due proof of the time during which such house remained unoccupied.

Assessments on houses to be discharged for the period they are unoccupied.

Mode of levying the duties charged on tithes.

71. [[1]And be it enacted, that] where by any assessment the duties shall be charged on tithes or teinds, and the same shall not be paid within the respective times limited by this Act, it shall be lawful for the collector and officer respectively to distrain upon such tithes or teinds, or any other goods or chattels of the owner of such tithes or teinds, wherever the same can be found, and to seize, take, and sell so much thereof as shall be sufficient for levying the said assessment, under and subject to the like powers granted by the said Acts relating to the duties of assessed taxes in other cases.

Mode of levying the duties on compositions for tithes, or on manors or royalties, markets, fairs, tolls, fisheries, &c.

72. [[1]And be it enacted, that] when any assessment shall be charged on any composition for tithes or teinds, or any rent or payment in lieu thereof, the occupier of the lands and premises charged with such composition, rent, or payment shall be answerable for the duties so charged, and may deduct the same out of the next payment on account thereof; and where any assessment shall be charged on the profits of manors or royalties, or of markets or fairs, or on tolls, fisheries, or any other annual or casual profits not distrainable, the owner or occupier, or receiver of the profits thereof, shall be answerable for the duties charged thereon, and may retain and deduct the same out of such profits; and in every such case the collector shall distrain upon such persons respectively by any of the ways and means prescribed by the said Acts relating to the duties of assessed taxes.

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[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

Contracts between landlords and tenants or other persons not to be binding contrary to this Act.

73. Provided always [[1] and be it enacted], that no contract, covenant, or agreement between landlord and tenant, or any other persons, touching the payment of taxes and assessments to be charged on their respective premises, shall be deemed or construed to extend to the duties charged thereon under this Act, nor to be binding contrary to the intent and meaning of this Act; but that all such duties shall be charged upon and paid by the respective occupiers, subject to such deductions and repayments as are by this Act authorized and allowed; and all such deductions and repayments shall be made and allowed accordingly, notwithstanding such contracts, covenants, or agreements.

Assessors to make their assessments, and deliver them with the returns to the Commissioners.

74. [[1]And be it enacted, that] the respective assessors shall make their assessments on all lands, tenements, and hereditaments, or heritages, within the limits of those places for which they are to act, and shall set down therein the full and just annual value of all such lands and premises estimated in each particular case, according to the directions of this Act, together with the names and surnames of the occupiers and proprietors thereof, and shall deliver the same, together with all returns which shall have been made to them, as well of such annual value as of any deduction claimed to be made therefrom, to the said Commissioners for General Purposes, such returns being first progressively numbered; and whenever the said assessors shall not be able to make their assessments according to the provisions of this Act, or shall be obstructed therein, it shall be lawful for them to make application to the said Commissioners, or to any inspector or surveyor, who shall severally instruct such assessor in making his assessments, and assist him in the execution of this Act, according to the powers and authorities hereby vested in them respectively.

Assessors to apply to Commissioners and surveyors for instructions.

Assessors, on bringing in their assessments shall if required, give notice to overseers of the poor to produce the rate books.

75. [[1]And be it enacted, that] the assessors to be appointed for the said duties in England shall, at the time of bringing in their assessments if required so to do by any surveyor or inspector of the said duties, or by the respective Commissioners, give notice to the overseers of the poor of the parish or place where they shall act, to produce or cause to be produced to the said Commissioners the book or books, or a true copy thereof, in which shall have been entered the rates made for the relief of the poor of such parish or place, and also a true copy of the last rate made for the relief of the poor in such parish or place, and such overseers shall without fail produce such book or books to the said Commissioners, or deliver the same to the said inspector or surveyor, for their use, and the said assessors shall declare in writing, signed by them, whether the said rates are made on the full value of the properties therein, or on any and what proportionate part thereof, to the best of their knowledge and belief; and the said Commissioners shall, in case the said surveyor or inspector shall allege and show to the satisfaction of the said Commissioners that the said assessments or any of them have not been made according to the directions of this Act, examine the said assessors, and also the overseers of the poor for the same parish or place, or any of them, being duly summoned for that purpose, on their oaths, touching the proportions between the said rates and the value of the properties charged therein, and whether the properties, or any and which of them, have been valued therein at the amount of at any and what proportion of the annual value thereof respectively, and what ought to be the just propor-

Commissioners may examine assessors and overseers touching the making of the assessments.

[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

tion between the rates on the different properties therein charged, if the amount of the values thereof, and the same proportion between the rates, had been observed throughout the rate, and also what property shall have been omitted to be rated, and which of the properties in the parish or place shall be entitled to be assessed on the profits or on an average of the profits according to this Act; and the said inspector or surveyor shall carefully examine the assessments made by the same assessors with the last rate made for the relief of the poor, in order that he may the better ascertain whether the said assessments have been made on all the properties situate in each parish, and according to the directions prescribed by this Act, and from the result of the said inquiries may rectify the same in any particulars which in his judgment may be requisite before the Commissioners allow and sign such assessment as herein directed; and in so doing may pursue, if he think fit, the rules in Number XI. of this Act before mentioned, relating to the said rates for relief of the poor.

Inspector or surveyor may rectify assessments if not duly made.

Commissioners and officers may inspect public rate books, and take copies or extracts.

Penalty for refusal to permit such inspection.

76. [[1]And be it enacted, that] the several Commissioners, inspectors, surveyors, and assessors acting respectively in the execution of this Act, or any person authorized by them respectively, shall have liberty, from time to time and at all seasonable times, to inspect and take copies of or extracts from any book kept by any parish officer or other person of or concerning the rates made for the relief of the poor, or any other public taxes, rates, or assessments, in any place within the limits for which they shall be appointed, without the payment of any fee whatever; and if any person in whose custody or power any of the said books shall be shall refuse or neglect to permit the said inspection, or the copies or extracts to be made as aforesaid, or to attend the said Commissioners with any such book when required so to do in pursuance of this Act, such person so offending shall forfeit any sum not exceeding twenty pounds nor less than five pounds.

Assessors in Scotland to be assisted by the schoolmasters, and to be examined concerning their assessments.

77. [[1]And be it enacted, that] it shall be lawful for the assessors in each parish or place in Scotland, and they are hereby required, to take to their assistance the schoolmaster in such parish or place, for the purpose of making such assessments of the lands and other premises within their respective limits; and at the time of bringing in their assessments they shall make oath of the truth of the same, and that such assessments are made according to the best of their skill and judgment, and shall submit to be examined on oath before the said Commissioners in all matters and things concerning the said assessments which the said Commissioners shall require for their information.

Assessors and other officers to view and survey lands by order of the Commissioners.

78. [[1]And be it enacted, that] in cases where the occupier or other person chargeable shall, upon due notice under this Act, omit to produce an account in writing as aforesaid of the amount of the annual value of the property in his occupation, estimated according to the general rule in Schedule (A.), or such other rules in the said schedule as are applicable to such property, or shall have delivered an account with which the Commissioners shall be dissatisfied, the several assessors, inspectors, and surveyors, having first obtained an order in that behalf, signed by the said Commissioners, and taking to their assistance such person or persons of skill as shall be named in such order, shall, after two days' notice to the occupier, have full power, at all seasonable times in the daytime, to view and examine any lands or other property

[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

chargeable, in order to make a survey thereof, or otherwise to ascertain the annual value at which the same ought to be charged by virtue of this Act, and for so doing shall have liberty to enter upon any lands or grounds, whether inclosed or not, and to value the same, and to measure and survey the same if they cannot otherwise ascertain the annual value thereof.

Commissioners to allow and sign assessments not objected to and made to their satisfaction.

79. [[1]And be it enacted, that] within a reasonable time after the respective surveyors and inspectors shall have had the examination of the assessments delivered by the assessors, the Commissioners shall proceed to take the same into consideration, and in case the surveyor or inspector shall not have objected thereto, and the said Commissioners shall be satisfied that the said assessments have been made truly and without fraud, and so as to charge the several properties contained therein with the full duty which ought to be charged upon them respectively, the said Commissioners shall allow and sign such assessments: Provided always, that in case the surveyor or inspector shall object to any such assessment, and shall apply for a revision thereof, suggesting in writing to the Commissioners any error, mistake, or fraud in making the same, it shall be lawful for the said Commissioners, according to the best of their judgment, to rectify such assessment, so that the duty may be fully charged according to the intent and meaning of this Act.

On objection taken, the Commissioners may rectify assessments.

Amount of assessments and day of appeal to be notified.

80. [[1]And be it enacted, that] so soon as the assessments for any parish or place under Schedules (A.) and (B.) shall be allowed and signed as aforesaid the Commissioners shall cause notice thereof and of the day for hearing appeals therefrom to be given in such manner as they shall judge expedient, which notice may be given either by delivering a copy of such assessment to the assessor of such parish or place, for the inspection of the parties charged thereby, together with a public notice of the day of appeal, to be affixed on or near to the church door, or on any other public place in the parish, or by delivering to each party charged the amount of his assessment, together with a note of the day of appeal, and such notices shall be made and given at least fourteen days before the day of appeal so fixed.

The value of lands may be ascertained by actual valuation by order of the Commissioners.

81. [[1]And be it enacted, that] if upon appeal any dispute shall arise touching the annual value of any lands, tenements, hereditaments, or heritages, and the Commissioners shall deem it necessary that a valuation thereof should be taken and made by any person of skill, it shall be lawful for them to direct the appellant to cause such valuation to be made by any person to be named by the said Commissioners, the costs and charges whereof shall abide the final determination of the said Commissioners, and it shall be lawful for them to make an assessment according to such valuation, and to require the same to be verified on the oath of the person making the same; but in case the appellant shall not proceed with effect to cause such valuation to be made as aforesaid, the said Commissioners shall make an assessment according to the best of their judgment: Provided always, that it shall be competent to the said Commissioners, in every such case where the valuation so made shall exceed the value put upon the same lands, tenements, herditaments, or heritages by the appellant, to direct the costs and charges attending the same to be paid by him; but if they shall be of opinion that such costs and charges have not been incurred through any default of the said appellant, they shall direct the same to be paid by the collector of the parish or place, who, on the certificate of the Commissioners

By whom the costs of such valuation are to be paid.

[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

present at the time of the determination, shall pay the same, and the sum so paid shall be allowed to such collector in his accounts with the proper officer for receipt, on delivering to him such certificate, together with the receipt and voucher for such payment.

In case of appeal, occupier showing lease, or, if no lease, proving his annual rent, the Commissioners may reduce the rate.

82. Provided always, [[1]and be it enacted,] that if on appeal the occupier of any premises held under a demise at rack-rent shall produce and show to the Commissioners the lease, tack, or agreement in writing, or shall prove by any lawful evidence to be produced on his part, in case there shall be no such lease, tack, or agreement in writing, the annual amount of the rent at which such premises are let, it shall be lawful for the said Commissioners, in case such rent hath been fixed by agreement commencing within the period of seven years mentioned in the said general rule, and they shall be satisfied that such lease, tack, or agreement doth express the full consideration for the demise under which such occupier shall hold the same, or that the rent *bonâ fide* paid by such occupier for the same hath been duly shown to them in evidence, and that such demise is made wholly in consideration of such reserved rent, without any intention to conceal or diminish the annual value of such premises, or other fraudulent intention whatever, to abate and deduct from such assessment so much as in their judgment will reduce the rate to a just rate on such rent: Provided always, that if it shall appear to the said Commissioners that any lands, tenements, hereditaments, or heritages shall have been assessed at an annual value less than the actual rent at which the same shall be let, or (if not let) at less than the rent at which the same might be let, it shall be lawful for the said Commissioners to enlarge and increase such assessment to such sum as a like rate on such rent would amount unto, as well with respect to the rate on the property as the rate on the occupation of such lands, tenements, hereditaments, or heritages.

Where lands are assessed at less than the value, the assessment may be rectified.

Relief to be granted to occupiers and owners for losses caused by flood or tempest.

83. [[1]And be it enacted, that] whenever by any flood or tempest loss shall be sustained on the growing crops, or on the stock on lands demised to a tenant at a reserved rent, without fine or other sum paid, given, or contracted for in lieu of a reserved rent, or any part thereof, or the said lands, or any part thereof, shall by such flood or tempest be rendered incapable of cultivation for any year, and it shall be proved on oath to the satisfaction of the Commissioners for General Purposes acting for the division where the said lands are situate that the owner of the said lands hath in consideration of such loss abated or agreed to abate to his tenant the whole or any portion of the rent reserved or payable by such tenant for any year of such demise, it shall be lawful for the said Commissioners to abate in the assessment made in respect of the property in the said lands for the same year for which such rent hath been abated, and to discharge therefrom the whole or the like proportion of duty as the said owner shall appear on such proof as aforesaid to have abated of or from the rent reserved and made payable to him on such demise; and it shall also be lawful for the said Commissioners in every such case to abate in the assessment made in respect of the occupation of the said lands for the same year and to discharge therefrom the like proportion of duty as shall have been abated or discharged from the assessment made in respect of the property on the said lands for the cause aforesaid.

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[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

The like relief extended to occupiers and owners where the owners are incapable of consenting to abatement of rent.

84. [[1]And be it enacted, that] whenever from the cause aforesaid the like loss shall be sustained on the lands of any infant, idiot, lunatic, or other proprietor incapable of consenting to any abatement in the rent as aforesaid, being in the occupation of any such tenant as aforesaid, and the same shall be proved on oath before the said Commissioners to their satisfaction, it shall be lawful for them to abate in the assessment made in respect of the occupation of the said lands, and to discharge the whole or any part of the said duty, and in proportion to the loss so sustained, and to the amount which the said Commissioners shall be of opinion would or ought to have been abated as aforesaid if the said lands had belonged to a proprietor of full age and of sound mind, and capable of such consent as aforesaid.

Abatement of assessment in case of losses on lands in the occupation of owners.

85. [[1]And be it enacted, that] whenever from the cause aforesaid the like loss shall be sustained on lands in the occupation of the owner, and the same shall be proved on oath before the said Commissioners to their satisfaction, it shall be lawful for them to abate in the several assessments made in respect of the property in or occupation of the said lands, and to discharge the whole or any part of the said respective duties, and in proportion to the loss so sustained, and to the amount which the said Commissioners shall be of opinion would or ought to have been abated as aforesaid if the said lands had been demised to a tenant, and a proportionate abatement had been made to such tenant under the circumstances of the said loss.

Penalty for making false claim for such abatement.

86. [[1]And be it enacted, that] if any person shall be guilty of making any false claim for such abatement as aforesaid, or shall be guilty of any fraud or contrivance in making such claim, or in obtaining any such abatement, or shall fraudulently or untruly declare the amount or value of such loss, or the amount or value of any abatement made or agreed to be made in the rent of the lands in his occupation, on account of such loss, with intent fraudulently to obtain any such abatement, he shall forfeit the sum of fifty pounds and treble the amount of duty charged on him in respect of the said lands; and if the owner of any such lands, or any other person whatever, shall aid, abet, or assist any person charged to the said duties in making such false or fraudulent claim, or shall fraudulently or untruly declare the amount or value of any abatement made or agreed to be made in the rent of the said lands or the amount of such loss, with intent fraudulently to obtain for himself, or for his tenant, or for the owner or tenant of the said lands, any such abatement as aforesaid, every such owner or other person aforesaid shall forfeit the sum of one hundred pounds.

First assessment under Schedules (A.) and (B.) to remain in force for three years;

87. [[1]And be it enacted, that] the first assessment to be made after the fifth day of April one thousand eight hundred and forty-two, of the duties chargeable under either of the Schedules marked (A.) or (B.) of this Act, shall be and remain in force for the space of three years, without requiring returns from the parties charged therein for the second or third year of such assessment, and without altering the names of the parties charged, notwithstanding a change in the occupation or interest of or in the premises charged in such assessment may have happened; and the like sums shall be levied thereon for the second and third years respectively as shall or ought to have been levied thereon for the first year, and the assessment shall be subject to the like exemptions and allowances for the second and third years respectively as were granted for the first year; and the amount charged in such

[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

assessment shall be paid by four instalments in each year, on the days and times herein specified for payment of such instalments, subject, nevertheless, to be varied and altered in the following cases; (*videlicet*,)

unless the party be under-rated or omitted, or have obtained an exemption to which he is not entitled;

First.—If the inspector or surveyor shall find or discover that any person hath been under-rated in such assessment or omitted to be charged therein for the first year, or hath obtained an exemption or allowance for the first year which ought not to be allowed for the second or third year, it shall be lawful for such inspector or surveyor to surcharge such assessment for the second or third year in like manner in all respects as he is authorized to surcharge the assessment under the like circumstances for the first year of assessment, provided that such surcharge shall be made in the single duty, and no increase shall be made thereon above the rate of duty hereby granted, unless the Commissioners shall be of opinion that the assessment for the first year was, in the particular surcharged, deficient through the wilful default or neglect of the party to be charged:

or a person not chargeable in the first year become so subsequently;

Second.—If any person not chargeable in the first year of assessment shall become chargeable in the second or third year it shall be lawful for the assessor, inspector, or surveyor to require the like returns, and to proceed to the assessment of such person in like manner for the second or third year, as if the whole assessment of the parish, place, or district had commenced in that year:

or in case of appeal.

Third.—If any person shall find himself aggrieved by the continuance of such assessment for the second or third year, by occasion of his being over-rated therein, he may appeal from the same in that year on delivering ten days' notice of such his intention to the inspector or surveyor, together with a true and perfect schedule of the annual value of the property charged on him for that year, in like manner as he might have appealed against the same assessment under the like circumstances for the first year, and no payment on such assessment for the first or second year shall be construed to preclude such appeal; provided that for any vexatious appeal without reasonable cause it shall be lawful for the Commissioners to award reasonable costs for the attendance of the inspector, surveyor, or assessor to be added to the assessment and levied therewith for the use of such inspector, surveyor, or assessor, and which shall be paid to them respectively in like manner as any other payments under this Act may be made to them:

Assessment may be collected in the second and third year by the book delivered for first year.

Fourth.—It shall be lawful for the respective collectors to levy and gather the assessment for the second and third years respectively on the occupiers for the time being by the same rate or book which shall have been delivered to them for the first year, unless the Commissioners shall revoke the appointment of the said collectors, or shall alter or vary the assessments, and deliver to them a new rate or book for the second or third year:

Commissioners' duplicates to be made for each year.

Fifth.—The duplicates of the Commissioners shall be made for each year, and delivered to the proper officer for receipt, and at the Head[1] Office for Stamps and Taxes, containing the like particulars for the second and third years respectively as are herein required for the first year of assessment, varying only the amounts therein to be specified if the case shall require the same; and all the powers, regulations, matters, and

[1] Now the Chief Office of Inland Revenue.

things contained in this Act for rectifying any assessment, or increasing or diminishing the duty according to circumstances, or for levying the same, shall be in force for the second and third years respectively, in respect of the sums to be levied in those respective years, and shall be applied in those respective years, as fully and effectually as if the assessment had been made for those years respectively under the directions and regulations of this Act.

Duties in Schedule (C.) and rules deemed part of this Act.

88. [[1]And be it enacted, that] the duties hereby granted, contained in the Schedule marked (C.), shall be assessed and charged under the following rules, which rules shall be deemed and construed a part of this Act, and to refer to the said last-mentioned duties, as if the same had been inserted under a special enactment.

SCHEDULE (C.).

Rules for assessing and charging the Duties under Schedule (C.).

By whom to be paid.

The said last-mentioned duties shall be paid by the persons and corporations respectively intrusted with the payment of the annuities, dividends, and shares of annuities, therein charged on behalf of the persons, corporations, companies, or societies entitled thereto, their executors, administrators, successors, or assigns, and shall be assessed by the Commissioners hereby authorized or appointed for those purposes; and shall extend to all public annuities whatever payable in Great Britain[2] out of any public revenue in Great Britain[2] or elsewhere, [[3]and to all annuities payable in Ireland out of the revenue of the United Kingdom, to or for the use or benefit of any person not resident in Ireland,] and also to all dividends and shares of such annuities respectively which shall become payable after the fifth day of April one thousand eight hundred and forty-two, except in the following cases of exemption from the said duties; *viz.*

To what stock the duty extends.

Stock of friendly societies exempted.

First.—The stock, dividends, or interest of any friendly society legally established under any Act of Parliament relating to friendly societies; provided it shall appear by the rules of any such society deposited or to be deposited with the Commissioners for the Reduction of the National Debt, or with the trustees of any savings bank, that the sums assured by any such society to any individual, or to any person nominated by or to claim under him, shall not exceed the sum of two hundred pounds, or the amount of any annuity or annuities granted or to be granted by any such society to any individual, or to any person nominated by or to claim under him, shall not exceed the sum of thirty pounds per annum: Provided also, that when any property belonging to any such society shall be invested in the public securities in the Bank of England, the said last-mentioned property shall be duly claimed and proved by any trustee or treasurer of any such society, or by any member thereof, before the said Commissioners for Special Purposes:

Stock of savings banks exempted.

Second.—The stock or dividends of any savings bank established or to be established under the provisions of an Act passed in the ninth year of the reign of King George the fourth, intituled "An Act to consolidate

[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

[2] Now the United Kingdom, see the Income Tax Act, 1853 (16-7 V. c. 34).

[3] The words in brackets are repealed by the Statute Law Revision (No. 2) Act, 1874 (37-8 V. c. 96).

and amend the Laws relating to Savings Banks," arising from investments with the Commissioners for the Reduction of the National Debt; and also the dividends or interest payable by the trustees of any savings bank upon any funds therein deposited belonging to any depositor or to any charitable institution:

Stock of charitable institutions exempted.

Third.—The stock or dividends of any corporation, fraternity, or society of persons, or of any trust established for charitable purposes only, or which, according to the rules or regulations established by Act of Parliament, charter, decree, deed of trust, or will, shall be applicable by the said corporation, fraternity, or society, or by any trustee, to charitable purposes only, and in so far as the same shall be applied to charitable purposes only; or the stock or dividends in the names of any trustees applicable solely to the repairs of any cathedral, college, church, or chapel, or any building used solely for the purpose of divine worship, and in so far as the same shall be applied to such purposes, provided the application thereof to such purposes shall be duly proved before the said Commissioners for Special Purposes by any agent or factor on the behalf of any such corporation, fraternity, or society, or by any of the members or trustees:

Stock in the name of the Treasury or of the Commissioners for Reduction of the National Debt.

Fourth.—The stock or dividends transferred to the accounts in the books of the Bank of England in the name or under the description of the [1 Lord High Treasurer of England or of the Commissioners of her Majesty's] Treasury, or the Commissioners for the Reduction of the National Debt, in pursuance of any Act or Acts of Parliament; provided that [1 the governor and company of] the Bank of England shall from time to time cause to be transmitted to the said Commissioners for Special Purposes an account of the total amount of stock which shall have been transferred to the said respective accounts, also the payments to be made by the Commissioners for the Reduction of the National Debt on account of the Waterloo Subscription Funds:

Stock belonging to her Majesty or to accredited ministers.

Fifth.—The stock or dividends belonging to her Majesty, in whatever name the same may stand in the books of the Bank of England, and also the stocks or dividends of any accredited minister of any foreign state resident in [2 Great Britain] provided the property thereof shall, if standing in the name of any trustee, be duly proved before the said Commissioners for Special Purposes by such trustee.

The bank of England and South Sea Companies and the Commissioners of the National Debt to deliver accounts of the annuities payable to and by them respectively to the Com-

89. And for the assessing and charging of the said annuities payable to [1 the company of] the Bank of England [3 and to the South Sea Company respectively] at the receipt of the exchequer as aforesaid, and the profits attached thereto respectively, and also for the assessing and charging of all annuities payable by the Commissioners for Reduction of the National Debt, and the dividends and shares of all other annuities payable out of any public revenue, which are or shall be intrusted for payment to the companies of the Bank of England [3 and South Sea respectively,] be it enacted, that the respective companies, corporations, and Commissioners, having the distribution or payment of the said several annuities, dividends, and shares shall from time to time, as often as the payments thereon shall become due,

[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1890 (53-4 V. c. 51).

[2] Now the United Kingdom, see the Income Tax Act, 1853 (16-7 V. c. 34).

[3] The part in brackets is in effect repealed by the Statute Law Revision (No. 2) Act, 1874 (37-8 V. c. 96).

deliver to the respective Commissioners, appointed for the purpose of assessing the duties thereon as aforesaid, true and faithful accounts, in writing, in books to be provided for that purpose, of the several amounts of such annuities and profits attached to the same, which shall be paid to the said companies respectively, in respect of their corporate stock, and of such dividends and shares of annuities as shall be intrusted to any of such companies, corporations, or Commissioners, for payment to the persons, corporations, and companies entitled thereto, and the amount of duty chargeable thereon at the rate before directed, without deduction on any pretence whatever, except as herein is allowed, distinguishing therein the separate account of each person, corporation, company, and society entitled unto any part, dividend, or share of such annuities respectively, as the same shall stand in the books of the said respective companies, or at the said exchequer, in such manner as that the part, dividend, and share of each person, corporation, company, and society of or to such annuities respectively may be distinctly charged and assessed to the said duty; and the said respective Commissioners shall from time to time make an assessment of the duty which shall appear to be chargeable on the accounts so delivered to the best of their judgment and belief, and shall from time to time deliver the said books of assessments, signed by them respectively, to the said Commissioners for Special Purposes; and the said Commissioners for Special Purposes shall forthwith cause two certificates on parchment to be made out, under their hands and seals containing the total amounts of duty, and of the annuities, dividends, and shares whereon the said duty shall have been charged contained in each assessment, together with the proper title or description of the corporation, company, or persons having the distribution or intrusted with the payment of such annuities, dividends, and shares respectively; and they shall transmit one of such certificates to the respective Commissioners for making such assessments, and the other certificate to the Head[1] Office for Stamps and Taxes in England.

missioners for assessing the same.

90.[2] And for the assessing and charging of the annuities, dividends, and shares of annuities payable by the governor and company of the Bank of Ireland out of the public revenue of the United Kingdom to persons not resident in Ireland, be it enacted, that in every case in which payment of any such annuities, dividends, and shares of annuities as last aforesaid shall be demanded or applied for by any attorney, agent, trustee, or other person for or on the behalf or for the use or benefit of any person not resident in Ireland, the person demanding or applying for the payment of such annuities, dividends, or shares of annuities, before receiving the same, shall (whether he shall be required to do so by the said governor and directors of the said bank or not) deliver to the cashier of the said bank a declaration, signed by such applicant, containing a statement of the amount and description of the stock in respect of which such annuities, dividends, or shares are payable, and the name and place of abode of every person for whom or on whose behalf or for whose use or benefit such applicant requires the payment thereof, and declaring whether or not such last-mentioned person was resident in Ireland, within the intent and meaning of this Act, at the time when such annuities, dividends, and shares respectively became payable; and in every case in which payment of any such annuities, dividends, or

Persons receiving annuities or dividends payable at the Bank of Ireland on behalf of non-residents to deliver a declaration.

[1] Now the Chief Office of Inland Revenue.
[2] Sect. 90 is repealed by Statute Law Revision (No. 2) Act, 1874 (37-8 V. c. 96).

Bank to require a declaration where annuities, &c. are receivable under a power of attorney.

On refusal, parties entitled to annuities to be deemed not resident in Ireland.

Proviso.

shares of annuities shall be demanded or applied for by any person for or on the behalf of any other person, under or by virtue of any letter or power of attorney, or other delegated authority, the said governor and directors, or the cashier or other officer of the said bank, having the payment of any such annuities, dividends, or shares of annuities, shall, before paying the same, require such declaration and statement to be made and delivered as herein-before directed; and if the person demanding or applying for such payment shall refuse to make or sign and deliver such declaration and statement on being required to make and deliver the same as aforesaid, the person for whom or on whose behalf he shall demand or apply for such payment shall be deemed to be not resident in Ireland, and such annuities, dividends, or shares of annuities shall be charged accordingly with the duties granted by this Act: Provided always, that no person (other than a member of either House of Parliament entitled to be exempted from the duties of assessed taxes under the provisions in that behalf contained in the Acts relating to the said last-mentioned duties) shall be deemed to be resident in Ireland, within the intent and meaning of this Act, who shall have been absent from Ireland at one time or several times for a period equal in the whole to six months or more during the space of one year immediately preceding the day on which such annuities, dividends, and shares shall respectively have become payable.

Commissioners to make assessments of duties on annuities and dividends payable at the Bank of Ireland to persons not resident in Ireland.

91.[1] And be it enacted, that whenever it shall appear by any such declaration or statement as aforesaid that any such annuities, dividends, or shares of annuities are payable by the said governor and company of the Bank of Ireland, to or for the use or benefit of any person not resident in Ireland, and also whenever any person applying for payment of any such annuities, dividends, or shares of annuities shall refuse to make or sign and deliver such declaration and statement, on being required to make and deliver the same as aforesaid, the Commissioners herein-before appointed for that purpose shall assess and charge the duties hereby granted upon and in respect of all such annuities, dividends, and shares of annuities, and shall make out and transmit their certificates of such assessments in like manner as is herein-before provided with respect to the assessments to be made by the Commissioners appointed for assessing and charging the duties on annuities payable out of the revenue of the United Kingdom in England; and in all other cases where any such annuities, dividends, or shares of annuities shall be payable by the said governor and company to or for the use or benefit of any person not resident in Ireland, but which shall not be assessed and charged by the said Commissioners in the manner herein-before directed, by reason of the fact of such non-residence not having been made to appear to them in manner aforesaid, such annuities, dividends, and shares, which have been received or become payable in the preceding year shall be accounted for in Great Britain by the person entitled thereto, or beneficially interested therein, and shall be charged and assessed under the rules and regulations of Schedule (D.) of this Act, whether the same shall be received in Great Britain or not.

Penalty for omitting to make a declaration

92.[2] And be it enacted, that if any person shall receive of the governor and company of the Bank of Ireland any annuity, dividend, or share of annuity payable out of the public revenue of the United Kingdom, for or on

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[1] Sect. 91 is repealed by Statute Law Revision (No. 2) Act, 1874 (37-8 V. c. 96).
[2] Sect. 92 is repealed by Statute Law Revision (No. 2) Act, 1874 (37-8 V. c. 96).

the behalf of or for the use or benefit of any person not resident in Ireland, without previously delivering to the cashier of the said bank the declaration and statement by this Act directed to be delivered in such case, or if any person shall make, sign, or deliver any declaration or statement which shall not truly set forth the name and place of residence of the person, and of every person for whom or on whose behalf or for whose use or benefit he shall apply for payment of any such annuity, dividend, or share of annuity as aforesaid, the person who shall neglect or omit to deliver such declaration and statement as aforesaid, or who shall make, sign, or deliver any untrue declaration or statement, shall be liable to the payment to her Majesty of treble the amount of the duty chargeable on each annuity, dividend, or share of annuity; and if any person shall wilfully and fraudulently omit to deliver such declaration and statement, or shall wilfully make, sign, or deliver any false declaration or statement, or shall make or practise any fraudulent contrivance or device whatever, with intent to defraud her Majesty of the duty chargeable under this Act on any such annuity, dividend, or share of annuity as aforesaid, he shall forfeit the sum of one hundred pounds over and above treble the amount of the said duty.

on receiving annuities or dividends in Ireland on behalf of persons not resident there.

Penalty for fraudulent declaration or device to evade the duty.

93. [[1]And be it enacted, that] the respective corporations, companies, and persons entitled unto such annuities and profits attached thereto, or intrusted with the payment of the annuities, dividends, or shares of such public annuities as are herein-before described, shall, on notice of the amount of each assessment, from time to time to be made as aforesaid, (which notice shall be given from time to time as and when the annuities, dividends, and shares aforesaid shall become payable, and before payment thereof), set apart and retain the amount of duty so assessed for the purposes of this Act; and every such setting apart and retaining of the said duties shall be deemed a payment thereof by and on the behalf of the persons, corporations, and companies entitled unto the said annuities, dividends, and shares respectively; and all persons, corporations, and companies entitled to such annuities or profits attached thereto or to any part thereof, or to such dividends or shares of annuities as aforesaid, are hereby required, on receipt of the residue of the said annuities, profits, dividends, and shares, over and above the duty so assessed, to allow such payments in respect of the said assessments; and the corporations and persons having the distribution of such annuities, or intrusted with such payments, shall be and are hereby acquitted and discharged of so much money, as if the same had actually been paid unto the persons to whom such annuities, profits, dividends, and shares did or might belong, or were by law payable.

Companies to set apart and retain sums assessed.

94. [[1]And be it enacted, that] all monies so set apart at the Bank of England, [[2]the Bank of Ireland, and the South Sea House respectively,] and by the Commissioners for the Reduction of the National Debt, as before directed, shall be paid from time to time into the account to be kept at the Bank of England with the Receiver-General of [[3]Stamps and Taxes] as hereinafter directed, accompanied with a certificate of the amount of the assessment under which the same shall be so paid, under the hands of two or more of the Commissioners making such assessment; and the governor and

Monies set apart to be paid into the bank.

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[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

[2] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1874 (37-8 V. c. 96).

[3] Now Inland Revenue, see the Income Tax Act, 1853 (16-7 V. c. 34), s. 9.

company of the Bank of England shall also cause the amount of such assessment as shall from time to time be charged on the trading profits of the said company to be paid into the said account.

How small dividends shall be charged.

95. Provided always, [[1]and be it enacted,] that in respect of any of the annuities, dividends, and shares of annuities chargeable under Schedule (C.) by the respective Commissioners for those purposes, it shall not be required of them to make an assessment for any amount or payment where the half-yearly payment on such annuities, dividends, or shares shall not amount to fifty shillings, but that the annuities, dividends, and shares whereof the half-yearly payment shall not amount to fifty shillings shall be accounted for and charged under the Third Case of Schedule (D.) by which profits of an uncertain annual value are directed to be charged: Provided also, that no person shall be required to return any statement of the profits of such annuities, dividends, or shares, the half-yearly payment whereof shall amount to fifty shillings or more, and which are hereinbefore directed to be assessed in manner aforesaid, or be liable to any penalty for not returning the same, but all such dividends, and shares whereof the half-yearly payment shall not amount to fifty shillings, and which shall be paid without such assessment, shall be duly returned in the manner before directed, under the penalty before contained.

Persons intrusted with the payment of colonial annuities shall deliver accounts thereof.

96. [[1]And be it enacted, that] every person (other than the governor and company of the Bank of England, the directors of the East India Company, and the Commissioners for the Reduction of the National Debt,) intrusted with the payment of annuities, or any dividends or shares of annuities, payable out of the public revenue of any colony or settlement belonging to the Crown of the United Kingdom, to any persons, corporations, or companies in Great Britain,[2] or acting therein as agent or in any other character before described, shall, without further notice or demand thereof, deliver or cause to be delivered into the Head[3] Office for Stamps and Taxes in England an account in writing containing their names and residences, and a description of the annuities, dividends, and shares intrusted to them for payment, within one calendar month after the same shall have been required by public notice in the *London Gazette*, and shall also, on demand by the inspector authorized for that purpose by the Commissioners of [[4]Stamps and Taxes,] deliver or cause to be delivered to him, for the use of the said Commissioners for Special Purposes, true and perfect accounts of the amount of annuities, dividends, and shares payable by them respectively; and the said Commissioners for Special Purposes shall make an assessment thereon under Schedule (C.) at the rate before prescribed, subject to diminution on occasion of any exemptions to be allowed by the said Commissioners for Special Purposes, giving notice of the amount thereof to the respective persons intrusted with such last-mentioned payments, who shall respectively pay the duty on the said annuities, dividends, and shares on behalf of the persons, corporations, and companies entitled unto the same, out of the monies in their hands; and they shall be acquitted of such payments in like manner, and the like proceedings in all respects shall be had under the said Commissioners for Special Purposes, as are before directed in respect of annuities

Commissioners for Special Purposes to make assessments thereon.

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[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

[2] Now the United Kingdom, see the Income Tax Act, 1853 (16-7 V. c. 34).

[3] Now the Chief Office of Inland Revenue.

[4] Now Inland Revenue, see the Income Tax Act, 1853 (16-7 V. c. 34), s. 9.

payable out of the public revenue of the United Kingdom: Provided always, that the persons intrusted with such payment shall from time to time pay the duty so assessed thereon into the Bank of England, to the account to be kept at the Bank of England, as aforesaid with the Receiver-General of [[1]Stamps and Taxes,] and shall be answerable for such payment, and which duty so assessed shall, in default of such payment, be recoverable against the persons respectively intrusted with such payments as other duties charged on the parties may be recovered against them; and if any person intrusted with the payment of any such last-mentioned annuities, or any dividends or shares thereof, in the manner herein mentioned, or acting therein as agent, or in any other character herein described, shall neglect or refuse to deliver an account of his name and residence in the manner herein directed, or, after demand, shall neglect or refuse to deliver an account as aforesaid of the amount of such annuities, dividends, and shares as he is intrusted with the payment of, or in the payment of which he shall act as agent, or in any other character herein described, he shall forfeit the sum of one hundred pounds over and above the duty chargeable on such annuities, shares, or dividends.

Securities issued at the exchequer or other public office, and India bonds, to be charged under Schedule (C.).

97. [[2]And be it enacted, that] any interest payable out of the public revenue on securities issued or to be issued at the exchequer or other public office, by whatever names such securities shall be called, shall be charged to the said duties under the rules contained in Schedule (C.) by the Commissioners for assessing the profits of offices in the said exchequer or other office aforesaid at which the same shall be made payable, and the interest payable by the East India Company on the bonds issued or to be issued by them shall be charged to the said duties under the like rules by the Commissioners hereinbefore appointed for that purpose, which said Commissioners respectively shall execute this Act in relation to the profits arising from such securities and bonds as aforesaid, in like manner as the Commissioners appointed by this Act are empowered to assess the profits arising from annuities payable out of the public revenue in other cases; and the said Commissioners respectively hereby authorized to execute this Act in relation to such securities and bonds as aforesaid shall appoint assessors and collectors of the said duties arising from such securities and bonds from and amongst the officers intrusted with the payment or discharge of such securities and bonds, who shall respectively at the time of payment or discharge thereof compute the duty thereon, and after such computation shall enter the same in a certificate of assessment, and certify the same to the proper officer appointed for the payment or discharge of such securities and bonds, which officer is hereby empowered to stop and detain the said duty, and to pay the same into the Bank of England to the credit of the Receiver-General of [[1]Stamps and Taxes] in discharge of such assessment; and every person receiving or purchasing any such security or bond in circulation, with current interest thereon, shall be entitled and is hereby empowered to deduct from such interest the proportion of duty which will become chargeable thereon, in like manner and under the like powers and penalties as may be done in other cases of payment of interest, and as if such current interest were then due and charged to the said duty; and the like computation and

[1] Now Inland Revenue, see the Income Tax Act, 1853 (16-7 V. c. 34), s. 9.
[2] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

assessment shall be made whenever a new security or bond shall be issued in discharge of any former security or bond, with interest, or in discharge of interest due on any former security or bond; and the person receiving such new security or bond in exchange for any former security or bond, with interest, or for such interest, shall pay to the proper officer at the time of receiving such new security or bond the full duty computed on the interest payable on the said former security or bond.

Claims of exemption to be made to the Commissioners for Special Purposes according to following rules.

98. Provided always, [[1]and be it enacted,] that all claims of exemption under any of the rules contained in Schedule (C.) from the said duties on annuities, dividends, and shares of annuities, payable out of the revenue of the United Kingdom, shall be made to the Commissioners for Special Purposes at the Head[2] Office for Stamps and Taxes in England, according to the following rules; *videlicet*,

First.—Every claim shall be made in writing, in such form as the Commissioners of [[3]Stamps and Taxes] shall direct, and the said Commissioners for Special Purposes shall require the same to be verified on the affidavit of every such person as they shall think necessary, such affidavit to be made as before directed in all cases cognizable before the said Commissioners, and they shall have authority to demand and require, from every such person as they shall think proper to be examined touching such claim, true answers upon oath, to be made as before directed, to all such questions as they shall think material in such claim:

Second.—Whenever the Commissioners for Special Purposes shall have allowed any such exemption, they shall give an order for payment of the sums retained for the duties on such annuities, dividends, and shares, in respect of which they shall have allowed such exemption, to the respective claimants, or to the attornies or agents who shall have been authorized to receive the said annuities, dividends, and shares, on behalf of the said claimants; and such payment shall be made in like manner as is hereinbefore provided with respect to allowances to be granted under Number V. of Schedule (A.) of this Act.

Penalty for fraudulently claiming exemptions of stock.

99. [[1]And be it enacted, that] if any person shall, with intent to defraud her Majesty, falsely or fraudulently make any claim to be exempted, either in his own behalf or any other, from the duty charged on such annuities, or any dividends or shares thereof, contrary to the intent of this Act, every such person shall forfeit the sum of one hundred pounds, and if such claim shall be made by any person in his own behalf he shall moreover be liable to be assessed in treble the duty to be charged on the said annuities and shares.

Duties in Schedule (D.) and rules deemed part of the Act.

100. [[1]And be it enacted, that] the duties hereby granted, contained in the Schedule marked (D.) shall be assessed and charged under the following rules, which rules shall be deemed and construed to be a part of this Act, and to refer to the said last-mentioned duties, as if the same had been inserted under a special enactment.

SCHEDULE (D.).

To what the duty extends, and by whom to be paid.

The said last-mentioned duties shall extend to every description of property or profits which shall not be contained in either of the said

[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

[2] Now the Chief Office of Inland Revenue.

[3] Now Inland Revenue, see the Income Tax Act, 1853 (16-7 V. c. 34), s. 9.

Schedules (A.), (B.), or (C.), and to every description of employment of profit not contained in Schedule (E.), and not specially exempted from the said respective duties, and shall be charged annually on and paid by the persons, bodies politic or corporate, fraternities, fellowships, companies, or societies, whether corporate or not corporate, receiving or entitled unto the same, their executors, administrators, successors, and assigns respectively.

Rules for ascertaining the said last-mentioned Duties in the particular Cases herein mentioned.

Rules for ascertaining the duties.

First Case.—Duties to be charged in respect of any trade, manufacture, adventure, or concern in the nature of trade, not contained in any other schedule of this Act.

RULES.

Computation of duty on trade.

First.—The duty to be charged in respect thereof shall be computed on a sum not less than the full amount of the balance of the profits or gains of such trade, manufacture, adventure, or concern upon a fair and just average of three years, ending on such day of the year immediately preceding the year of assessment on which the accounts of the said trade, manufacture, adventure, or concern shall have been usually made up, or on the fifth day of April preceding the year of assessment, and shall be assessed, charged, and paid without other deduction than is hereinafter allowed: Provided always, that in cases where the trade, manufacture, adventure, or concern shall have been set up and commenced within the said period of three years, the computation shall be made for one year on the average of the balance of the profits and gains from the period of first setting up the same: Provided also, that in cases where the trade, manufacture, adventure, or concern shall have been set up and commenced within the year of assessment, the computation shall be made according to the rule in the Sixth Case of this schedule:

To whom the duty extends.

Second.—The said duty shall extend to every person, body politic or corporate, fraternity, fellowship, company, or society, and to every art, mystery, adventure, or concern carried on by them respectively, in Great Britain[1] or elsewhere, as aforesaid; except always such adventures or concerns on or about lands, tenements, hereditaments, or heritages as are mentioned in Schedule (A.), and directed to be therein charged:

Deductions not to be allowed.

Third.—In estimating the balance of profits and gains chargeable under Schedule (D.), or for the purpose of assessing the duty thereon, no sum shall be set against or deducted from, or allowed to be set against or deducted from, such profits or gains on account of any sum expended for repairs of premises occupied for the purpose of such trade, manufacture, adventure, or concern, nor for any sum expended for the supply or repairs or alterations of any implements, utensils, or articles employed for the purpose of such trade, manufacture, adventure, or concern beyond the sum usually expended for such purposes according to an average of three years preceding the year in which such assessment shall be made; nor on account of loss not connected with or arising out of such trade, manufacture, adventure, or concern; nor on

[1] Now the United Kingdom, see the Income Tax Act, 1853 (16-7 V. c. 34).

account of any capital withdrawn therefrom; nor for any sum employed or intended to be employed as capital in such trade, manufacture, adventure, or concern; nor for any capital employed in improvement of premises occupied for the purposes of such trade, manufacture, adventure, or concern; nor on account or under pretence of any interest which might have been made on such sums if laid out at interest; nor for any debts, except bad debts proved to be such to the satisfaction of the Commissioners respectively; nor for any average loss beyond the actual amount of loss after adjustment; nor for any sum recoverable under an insurance or contract of indemnity:

No deduction for annual interest.

Fourth.—In estimating the amount of the profits and gains arising as aforesaid no deduction shall be made on account of any annual interest, or any annuity or other annual payment, payable out of such profits or gains.

Second Case.—The duty to be charged in respect of professions, employments, or vocations, not contained in any other schedule of this Act.

RULES.

To what the duty shall extend.

First.—The said duty on employments shall be construed to extend to every employment by retainer in any character whatever, whether such retainer shall be annual, or for a longer or shorter period; and to all profits and earnings of whatever value, subject only to such exemptions as are hereinafter granted:

Computation of duty on professions.

Second.—The duty to be charged shall be computed at a sum not less than the full amount of the balance of the profits, gains, and emoluments of such professions, employments, or vocations (after making such deductions, and no other, as by this Act are allowed,) within the preceding year, ending as in the first case, to be paid on the actual amount of such profits or gains, without any deduction, subject to the like provisions as are made in the first case in respect of the period of average, in the cases of setting up and commencing such profession, employment, or vocation within the period herein limited:

Certain rules of the first case to extend to the second.

Third.—The third and fourth rules in the first case shall also extend to the profits arising under the second case, as far as they are applicable.

Rules applying to both the preceding Cases.

Deductions not to be allowed on first and second cases.

First.—In estimating the balance of the profits or gains to be charged according to either of the first or second cases, no sum shall be set against or deducted from, or allowed to be set against or deducted from such profits or gains, for any disbursements or expenses whatever, not being money wholly and exclusively laid out or expended for the purposes of such trade, manufacture, adventure, or concern, or of such profession, employment, or vocation; nor for any disbursements, or expenses of maintenance of the parties, their families or establishments; nor for the rent or value of any dwelling house or domestic offices, or any part of such dwelling house or domestic offices, except such part thereof as may be used for the purposes of such trade or concern, not exceeding the proportion of the said rent or value hereinafter mentioned; nor for any sum expended in any other domestic or private purposes, distinct from the purposes of such trade, manufacture, adventure, or concern, or of such profession, employment, or vocation:

Second.—The computation of the duty to be charged in respect of any trade, manufacture, adventure, or concern, or any profession, whether carried on by any person singly or by any one or more persons jointly, or by any corporation, company, fraternity, or society, shall be made exclusive of the profits or gains arising from lands, tenements, or hereditaments occupied for the purpose of such profession, trade, manufacture, adventure, or concern: Duty on trade to be computed exclusive of the profits of lands.

Third.—The computation of duty arising in respect of any trade, manufacture, adventure, or concern, or any profession carried on by two or more persons jointly, shall be made and stated jointly and in one sum, and separately and distinctly from any other duty chargeable on the same persons, or either or any of them; and the return of the partner who shall be first named in the deed, instrument, or other agreement of copartnership (or where there shall be no such deed, instrument, or agreement, then of the partner who shall be named singly, or with precedence to the other partner or partners, in the usual name, style, or firm of such copartnership, or where such precedent partner shall not be an acting partner, then of the precedent acting partner,) and who shall be resident in Great Britain,[1] (and who is hereby required, under the penalty herein contained for default in making any return required by this Act, to make such return on behalf of himself and the other partner or partners whose names and residences shall also be declared in such return,) shall be sufficient authority to charge such partners jointly: Provided always, that where no such partner shall be resident in Great Britain[1], then the statement shall be prepared and delivered by their agent, manager, or factor resident in Great Britain[1], jointly for such partners, and such joint assessment shall be made in the partnership name, style, firm, or description; and no separate statement shall be allowed in any case of partnership [except for the purpose of the partners separately claiming an exemption as herein directed, or of accounting for separate concerns; provided that if any partner being entitled to exemption shall declare the proportion of his share in such partnership, trade, profession, or concern, in order to a separate assessment for the above purpose, it shall be lawful to charge such partner separately; but if no such claim be made, then such assessment shall be made jointly, according to the amount of the profits and gains of such partnership][2]: Provided also, that any joint partner in such trade, profession, or concern, which shall have been already returned by such precedent partner as aforesaid, may return his name and place of abode, and that he is such partner, without returning the amount of duty payable in respect thereof, unless the Commissioners respectively shall think proper to require a further return, in which case it shall be lawful for such Commissioners to require from every such partner the like return, and the like information and evidence, as they are hereby entitled to require from the precedent partner: Duty on trade carried on by two or more persons, how to be charged.

Fourth.—If amongst any persons engaged in any trade, manufacture, adventure, or concern, or in any profession, in partnership together, any change shall take place in any such partnership, either by death, or In case of change of partners the duty to be

[1] Now the United Kingdom, see the Income Tax Act, 1853 (16-7 V. c. 34).

[2] The words in brackets are repealed by the Finance Act, 1907 (7 Edw. 7, c. 13).

charged on the profits antecedent to the change.

dissolution of partnership as to all or any of the partners, or by admitting any other partner therein, before the time of making the assessment, or within the period for which the assessment ought to be made under this Act, or if any person shall have succeeded to any trade, manufacture, adventure, or concern, or any profession, within such respective periods as aforesaid, the duty payable in respect of such partnership, or any of such partners, or any person succeeding to such profession, trade, manufacture, adventure, or concern, shall be computed and ascertained according to the profits and gains of such business derived during the respective periods herein mentioned, notwithstanding such change therein or succession to such business as aforesaid, unless such partners, or such person succeeding to such business as aforesaid, shall prove, to the satisfaction of the respective Commissioners, that the profits and gains of such business have fallen short or will fall short from some specific cause, to be alleged to them, since such change or succession took place, or by reason thereof:

Duties to be charged in one division, except where the same person is engaged in different concerns in trade in divers places.

Fifth.—Every statement of profits to be charged under this schedule shall include every source so chargeable on the person delivering the same on his own account, or on account of any other person, and every person shall be chargeable in respect of the whole of such duties in one and the same division, and by the same Commissioners, (except in cases where the same person shall be engaged in different partnerships, or the same person shall be engaged in different concerns relating to trade or manufacture in divers places, in each of which cases a separate assessment shall be made in respect of each concern at the place where such concern if singly carried on ought to be charged as herein directed,) and every such statement on the behalf of any other person for which such person shall be chargeable as acting in any of the characters before described, or on the behalf of any corporation, fellowship, fraternity, company, or society, shall include every source chargeable as last aforesaid, and shall be delivered in that division where such person, corporation, fellowship, fraternity, company, or society would be chargeable if acting on his or their own behalf.

Third Case.—The duty to be charged in respect of profits of an uncertain annual value not charged in Schedule (A.).

Computation of duty on uncertain profits.

First.—The duty to be charged in respect thereof shall be computed at a sum not less than the full amount of the profits or gains arising therefrom within the preceding year, ending as in the first case, to be paid on the actual amount of such profits or gains, without any deduction:

On interest, not being annual.

Second.—The profits on all securities bearing interest payable out of the public revenue (except securities before directed to be charged under the rules of Schedule (C.), and on all discounts, and on all interest of money, not being annual interest, payable or paid by any person whatever, shall be charged according to the preceding rule in this case:

On dealers in cattle and sellers of milk.

Third.—Whenever the Commissioners shall, on examination, find that any lands occupied by a dealer in cattle, or by a dealer in or seller of milk, (which lands shall have been estimated and charged on the rent or annual value,) are not sufficient for the keep and sustenance of the cattle brought on the said lands so that the rent or annual value of the said lands cannot afford a just estimate of the profits of such dealer, it shall be lawful for the said Commissioners to require a return of such

profits, and to charge such further sum thereon as, together with the charge in respect of the occupation of the said lands, shall make up the full sum wherewith such trader ought to be charged in respect of the like amount of profits charged according to the first rule in this case.

Computation of duty from securities in Ireland, in the colonies, &c., and foreign securities.

Fourth Case.—The duty to be charged in respect of interest arising from securities [[1]in Ireland, or] in the British plantations in America, or in any other of her Majesty's dominions out of Great Britain[2], and foreign securities, except such annuities, dividends, and shares as are directed to be charged under Schedule (C.) of this Act.

The duty to be charged in respect thereof shall be computed on a sum not less than the full amount of the sums (so far as the same can be computed) which have been or will be received in Great Britain[2] in the current year, without any deduction or abatement.

Computation of duty from possessions in Ireland, the colonies, &c.

Fifth Case.—The duty to be charged in respect of possessions [[1]in Ireland, or] in the British plantations in America, or in any other of her Majesty's dominions out of Great Britain,[2] and foreign possessions.

The duty to be charged in respect thereof shall be computed on a sum not less than the full amount of the actual sums annually received in Great Britain,[2] either for remittances from thence payable in Great Britain,[2] or from property imported from thence into Great Britain,[2] or from money or value received in Great Britain,[2] and arising from property which shall not have been imported into Great Britain,[2] or from money or value so received on credit or on account in respect of such remittances, property, money, or value brought or to be brought into Great Britain,[2] computing the same on an average of the three preceding years, as directed in the first case, without other deduction or abatement than is hereinbefore allowed in such case.

Computation of duty on undescribed profits.

Sixth Case.—The duty to be charged in respect of any annual profits or gains not falling under any of the foregoing rules, and not charged by virtue of any of the other schedules contained in this Act.

The nature of such profits or gains, and the grounds on which the amount thereof shall have been computed, and the average taken thereon (if any), shall be stated to the Commissioners, and the computation shall be made either on the amount of the full value of the profits and gains received annually, or according to an average of such period greater or less than one year, as the case may require, and as shall be directed by the said Commissioners; and such statement and computation shall be made to the best of the knowledge and belief of the person in receipt of the same or entitled thereto.

Persons carrying on two or more concerns may set the loss sustained in one against the profits acquired in the other concern.

101. Provided always, [[3]and be it enacted,] that nothing herein contained shall be construed to restrain any person carrying on, either solely or in partnership, two or more distinct trades, manufactures, adventures, or concerns in the nature of trade, the profits whereof are made chargeable under the rules of Schedule (D.), from deducting or setting against the profits acquired in one or more of the said concerns the excess of the loss sustained in any other of the said concerns over and above the profits thereof,

[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1874 (37-8 V. c. 96).

[2] Now the United Kingdom, see the Income Tax Act, 1853 (16-7 V. c. 34).

[3] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

in such manner as may be done under this Act where a loss shall be deducted from the profits of the same concern, or to restrain any of such persons from making separate statements thereof, or to restrain any such person renting a dwelling house, part whereof shall be used by him for the purposes of any trade or concern or any profession hereby charged, from deducting or setting off from the profits of such trade, concern, or profession such sum not exceeding two thirds of the rent *bonâ fide* paid for such dwelling house, with the appurtenances, as the said respective Commissioners shall on due consideration allow; and the respective Commissioners shall have authority to allow such deductions as in other cases, and to assess such person accordingly.

Charging with duty all annual interest not otherwise charged.

102. [[1]And be it enacted, that] upon all annuities, yearly interest of money, or other annual payments, whether such payments shall be payable within or out of Great Britain,[2] either as a charge on any property of the person paying the same by virtue of any deed or will or otherwise, or as a reservation thereout, or as a personal debt or obligation by virtue of any contract, or whether the same shall be received and payable half-yearly or at any shorter or more distant periods, there shall be charged for every twenty shillings of the annual amount thereof the sum of seven-pence without deduction, according to and under and subject to the provisions by which the duty in the Third Case of Schedule (D.) may be charged; provided that in every case where the same shall be payable out of profits or gains brought into charge by virtue of this Act no assessment shall be made upon the person entitled to such annuity, interest, or other annual payment, but the whole of such profits or gains shall be charged with duty on the person liable to such annual payment, without distinguishing such annual payment, and the person so liable to make such annual payment, whether out of the profits or gains charged with duty, or out of any annual payment liable to deduction, or from which a deduction hath been made, shall be authorized to deduct out of such annual payment at the rate of seven-pence for every twenty shillings of the amount thereof, and the person to whom such payment liable to deduction is to be made shall allow such deduction, at the full rate of duty hereby directed to be charged, upon the receipt of the residue of such money, and under the penalty hereinafter contained, and the person charged to the said duties having made such deduction shall be acquitted and discharged of so much money as such deduction shall amount unto, as if the amount thereof had actually been paid unto the person to whom such payment shall have been due and payable; but in every case where any annual payment as aforesaid shall, by reason of the same being charged on any property or security [[3]in Ireland, or] in the British plantations, or in any other of her Majesty's dominions, or on any foreign property or foreign security, or otherwise, be received or receivable without any such deduction as aforesaid, and in every case where any such payment shall be made from profits or gains not charged by this Act, or where any interest of money shall not be reserved or charged or payable for the period of one year, then and in every such case there shall be charged upon such interest, annuity, or other annual payment as aforesaid the duty before mentioned,

Interest from profits charged liable to deduction.

All other interest to be charged under Schedule (D.).

[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (1-2 V. c. 57).

[2] Now the United Kingdom, see the Income Tax Act, 1853 (16-7 V. c. 34).

[3] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1874 (37-8 V. c. 96).

according to and under and subject to the several and respective provisions by which the duty in the Third Case of Schedule (D.) may be charged: Provided always, that where any creditor on any rates or assessments not chargeable by this Act as profits shall be entitled to such interest, it shall be lawful to charge the proper officer having the management of the accounts with the duty payable on such interest, and every such officer shall be answerable for doing all acts, matters, and things necessary to a due assessment of the said duties, and payment thereof, as if such rates or assessments were profits chargeable under this Act, and such officer shall be in like manner indemnified for all such Acts, as if the said rates and assessments were chargeable.

Interest secured on rates to be charged on the officer managing the accounts.

103. [[1]And be it enacted, that] if any person shall refuse to allow any deduction authorized to be made by this Act out of any payment of annual interest of money lent, or other debt bearing annual interest, whether the same be secured by mortgage or otherwise, he shall forfeit for every such offence treble the value of such principal money or debt; and if any person shall refuse to allow any deduction authorized to be made by this Act out of any rent or other annual payment mentioned in the ninth and tenth rules of No. IV. Schedule (A.), or out of any annuity or annual payment mentioned in Schedules (C.) or (E.), or in the next preceding clause, save such annual interest as aforesaid, every such person shall forfeit the sum of fifty pounds; and all contracts, covenants, and agreements made or entered into, or to be made or entered into, for payment of any interest, rent, or other annual payment aforesaid, in full, without allowing such deduction as aforesaid, shall be utterly void.

Penalty on refusing to allow deductions.

104. [[1]And be it enacted, that] whenever it shall be proved, to the satisfaction of the said respective Commissioners acting in the district where any person making the application shall reside, that any interest of money, annuity, or other annual payment shall be annually paid out of the profits and gains *bonâ fide* accounted for and charged by virtue of this Act at the rate and according to the rules specified in Schedule (D.), without any deduction on account thereof, it shall be lawful for such Commissioners to grant a certificate thereof, under the hands of any two of them, in such form as shall be provided under the authority of this Act, which certificate shall entitle the person so assessed, upon payment of such interest, annuity, or other annual payment, to abate and deduct so much thereof as a like rate on such interest, annuity, or other annual payment would amount unto; and every person to whom such interest, annuity, or other annual payment shall be paid shall allow such deductions and payments, upon receipt of the residue of such interest, annuity, or other annual payment, and the person paying the same shall be acquitted and discharged of so much money as a like rate thereon would amount unto, as if the same had actually been paid unto the person to whom such interest, annuity, or other annual payment shall have been due and payable; provided no such certificate shall be required where such payments are to be made out of the profits or gains arising from lands, tenements, hereditaments, or heritages, as before mentioned, or of any office or employment of profit, or out of any annuity, pension, stipend, or any dividend or share in such public annuities as are herein mentioned, but such deductions may be made without having obtained such certificate.

Deductions on payment of interest of money, and other payments from profits charged under Schedule (D.), to be made by virtue of a certificate.

[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

Charitable institutions exempted from the duties on interest chargeable under Schedule (D.).

105. Provided always, [[1]and be it enacted,] that any corporation, fraternity, or society of persons, and any trustee for charitable purposes only, shall be entitled to the same exemption in respect of any yearly interest or other annual payment chargeable under Schedule (D.) of this Act, in so far as the same shall be applied to charitable purposes only, as is hereinbefore granted to such corporation, fraternity, society, and trustee respectively in respect of any stock or dividends chargeable under Schedule (C.) of this Act, and applied to the like purposes; and such exemption shall be allowed by the Commissioners for Special Purposes, on due proof before them, and the amount of the duties which shall have been paid by such corporation, fraternity, society, or trustee in respect of such interest or yearly payment, either by deduction from the same or otherwise, shall be repaid, under the order of the said Commissioners for Special Purposes, in the manner hereinbefore provided for the repayment of sums allowed by them, in pursuance of an exemption contained in the said Schedule (C.).

In what districts the duties are to be charged.

106. [[1]And be it enacted, that] every person being a householder (except persons engaged in any trade, manufacture, adventure, or concern, or any profession, employment, or vocation,) shall be charged to the said duties contained in Schedule (D.) by Commissioners acting for the parish or place where his dwelling house shall be situate; and every person engaged in any trade, manufacture, adventure, or concern, or any profession, employment, or vocation, shall be chargeable by the respective Commissioners acting for the parish or place where such trade, manufacture, adventure, or concern shall be carried on, or where such profession, employment, or vocation shall be exercised, whether such trade, manufacture, adventure, or concern shall be carried on, or such profession, employment, or vocation shall be exercised wholly or in part only in Great Britain,[2] or whether such person shall be engaged in one only or more of such concerns, except where the same person shall be engaged in different concerns, and a loss from one concern shall be set off or deducted from the profits of another concern; and every person not being a householder, nor engaged in any trade, manufacture, adventure, or concern, nor in any profession, employment, or vocation, who shall have any place of ordinary residence, shall be charged by the Commissioners acting for the parish or place where he shall ordinarily reside; and every person not hereinbefore described shall be charged by the Commissioners acting for the parish or place where such person shall reside at the time of beginning to execute this Act in each year by giving such general notices as are herein mentioned, or shall first come to reside after the time for giving such general notices; and every such charge made in such parish or place shall be valid and effectual, notwithstanding the subsequent removal of the person so charged from the parish or place; and in order that the place where the said last-mentioned duties are to be charged may be ascertained, every person is hereby required, on the delivery of any list or statement as aforesaid, at the same time to deliver a declaration in writing signed by him declaring in what place he is chargeable, and whether he is engaged in any trade, manufacture, adventure, or concern, or in any profession, employment, or vocation, or not, and if he shall be so engaged in any

Declaration to be delivered of the place where party is chargeable.

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[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

[2] Now the United Kingdom, see the Income Tax Act, 1853 (16-7 V. c. 34).

trade, manufacture, adventure, or concern, or any profession, employment, or vocation, also declaring the place where the same shall be carried on or exercised, and every particular concern, profession, or employment in which he shall be engaged in such place in Great Britain,[1] whether wholly in Great Britain,[1] or in part only, as aforesaid; provided that where any trade shall be carried on in Great Britain,[1] by the manufacture of goods, wares, or merchandise, the assessment thereon shall be at the place of manufacture, although the sales of such goods, wares, or merchandise shall be elsewhere: Provided always, that every person not being engaged in any trade, manufacture, adventure, or concern, or in any profession, employment, or vocation, having two or more houses or places at which he shall be ordinarily resident, shall be charged at such of the parishes or places wherein the dwelling house is situate in which he shall be ordinarily resident at the time of beginning to execute this Act in each year in manner aforesaid, or in which he shall first come ordinarily to reside after giving such general notices as aforesaid: [[2]Provided always that the duty to be assessed by virtue of this Act, in respect of the profits or gains arising from possessions or securities in Ireland, upon any person resident in Great Britain as aforesaid, may be stated to and assessed by the respective Commissioners acting for the respective places where the persons receiving or entitled unto the same shall reside; and if the same shall be received by any agent, attorney, or factor, such agent, attorney, or factor shall make such return of the name and place of abode of the person entitled thereto as is herein required to be made of other persons of full age resident in Great Britain, and if the person entitled thereto shall not be of full age, or not resident in Great Britain, such agent, attorney, or factor shall be answerable for doing all acts, matters, and things required by this Act to be done in order to the assessing such profits to the said last-mentioned duties, and paying the same].

In cases of persons not engaged in trade having two residences, where the duties to be charged.

Profits arising from possessions in Ireland, where to be assessed.

107.[3] Provided always, and be it enacted, that persons holding offices in Ireland, and residing in Great Britain, and persons usually residing in Ireland, and serving in Parliament who shall or may be exempted from the duties of assessed taxes under the provisions in that behalf contained in the Acts relating to the said last-mentioned duties, shall, under the like circumstances under which such exemptions are to be claimed, be chargeable to the duties under this Act in like manner only as subjects of her Majesty residing out of Great Britain.

Persons holding offices in Ireland, &c. resident in Great Britain, as such to be chargeable as subjects resident out of Great Britain.

108. [[4]And be it enacted, that] the duty to be assessed by virtue of this Act in respect of the profits or gains arising from foreign possessions or foreign securities, or in the British plantations in America, or in any other of her Majesty's dominions, may be stated to and assessed by the respective Commissioners acting for the respective places hereinafter mentioned, *videlicet*, London, Bristol, Liverpool, and Glasgow, according to the regulations hereinafter mentioned, as if such duty had been assessed upon the profits or gains arising from trade or manufacture carried on in such places respectively; and such duty shall be stated to and assessed and charged by the Commissioners acting for such of the said places at or nearest to which such

Duties on profits of foreign or colonial possessions or securities, where to be charged.

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[1] Now the United Kingdom, see the Income Tax Act, 1853 (16-7 V. c. 34).

[2] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1874 (37-8 V. c. 96).

[3] Sect. 107 is repealed by Statute Law Revision (No. 2) Act, 1874 (37-8 V. c. 96).

[4] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

property shall have been first imported into Great Britain,[1] or at or nearest to which the person who shall have received such remittances, money, or value from thence, and arising from property not imported as aforesaid, shall reside; and in default of the owner or proprietor thereof being charged, the trustee, agent, or receiver of such profits or gains shall be charged for the same, and shall be answerable for the doing all such acts, matters, and things as shall be required by this Act to be done, in order to the assessing such profits to the duties granted by this Act, and paying the same, whether the person to whom the said profits belong shall be resident in Great Britain[1] or not: Provided always, that whenever the produce or the profits or gains arising from such possessions or securities as last aforesaid shall have been imported partly into the Port of London, and partly into any of the outports of Bristol, Liverpool, or Glasgow, or shall have been received by any person partly in the City of London and partly in any of the said outports, within the period of making up the account on which the duty is chargeable by this Act according to the rules herein contained, the whole of the duty chargeable in respect of such produce, profits, or gains so imported or received shall be assessed and charged by the Commissioners acting for the said City of London, and not elsewhere, and as if the whole of the said produce or the said profits or gains arising within the said period had been imported into or received in London; and whenever such produce or profits or gains arising as aforesaid shall have been within such period wholly imported into or received at the said outports of Bristol, Liverpool, and Glasgow, and different parts thereof shall have been imported into or received at two or more of such outports, the duty chargeable thereon shall be assessed and charged at one of such places only, and in one account, and at such of the said places at which the major part in value of such produce or profits or gains shall have been so imported or received; provided that the statements of such produce, profits, or gains shall be delivered to the Commissioners acting for each place at which any part of the said produce or profits or gains shall have been so imported or received, and transmitted by the respective Commissioners to the Head[2] Office for Stamps and Taxes in England, and the Commissioners of [[3]Stamps and Taxes] shall cause all such statements to be sent to the Commissioners acting for the place where the duty thereon shall appear by such statements to be chargeable according to this Act, who shall accordingly assess the same in one sum.

London and East and West India Docks and St. Katherine Dock to be assessed in London.

109. [[4]And be it enacted, that] the profits arising from the docks called the London Docks, the East and West India Docks, and Saint Katherine Dock respectively, situate in the county of Middlesex, shall be assessed by the Commissioners acting for the City of London.

Statements to be delivered at each place of residence.

110. [[4]And be it enacted, that] every person having two residences, or carrying on any trade or exercising any profession in different parishes, places, or in any place different from the place of his ordinary residence, shall, if required by the respective Commissioners, deliver at each such parish or place the like lists, declarations, and statements as he is hereby required to deliver in the parish or place where such person ought to be charged, but shall not be liable to any double charge by reason thereof; and

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[1] Now the United Kingdom, see the Income Tax Act, 1853 (16-7 V. c. 34).
[2] Now the Chief Office of Inland Revenue.
[3] Now Inland Revenue, see the Income Tax Act, 1853 (16-7 V. c. 34), s. 9.
[4] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

all lists, declarations, and statements containing the amount of profits chargeable under Schedule (D.) may be delivered to the respective persons and in manner herein directed, sealed up, if superscribed with the name and place of abode of, or place of exercising the profession or carrying on trade by, the person by whom the same shall have been made. Statements of profits under Schedule (D.) may be delivered under seal.

111. [[1]And be it enacted, that] all statements of profits and gains described in Schedule (D.) (except statements whereon assessments are to be made by the Commissioners for Special Purposes, as hereinafter authorized), shall be laid before the additional Commissioners, or the Commissioners for General Purposes acting as additional Commissioners in their respective districts, who shall appoint meetings for taking all statements then and from time to time to be delivered to them into consideration, within a reasonable time after the inspector or surveyor shall have had the examination of such statements; and in case the said additional Commissioners respectively shall be satisfied that any such statements have been *bonâ fide* made according to the provisions of this Act, and so as to enable the Commissioners to charge the respective persons returning the same with the full duties with which they ought respectively to be charged on account thereof, and in case no information shall be given to the said Commissioners of the insufficiency thereof, or no objection shall be made thereto by the inspector or surveyor, which he is hereby empowered to make for sufficient cause, the said Commissioners shall direct an assessment to be made of the duties chargeable on such statement by virtue of this Act. Additional Commissioners to consider statements, and make assessments on such as are satisfactory.

112. Provided always, [[1]and be it enacted,] that where the surveyor or inspector shall apprehend the determination made by the said Commissioners to be contrary to the true intent and meaning of this Act, and shall then declare himself dissatisfied with such determination, it shall be lawful for him to require the said Commissioners to state specially and sign the case upon which the question arose, together with their determination thereupon, which case the said Commissioners are hereby required to state and sign accordingly, and to deliver to the said inspector or surveyor, to be by him transmitted to the Commissioners for General Purposes for the same district, who shall with all convenient speed return an answer to the case so transmitted, with their opinion thereon subscribed; and according to such opinion the assessment which shall have been the cause of such appeal shall be altered or confirmed. Where the surveyor is dissatisfied with an assessment, he may require a case to be stated for the opinion of the general Commissioners.

113. [[1]And be it enacted, that] in every instance in which any person shall have made default in the delivery of any statement, such person not having been otherwise charged to the said last-mentioned duties, or if the said additional Commissioners shall not be satisfied with the statement delivered by any person, or any objection shall be made thereto by the inspector or surveyor, (which he is hereby authorized and required to make in writing, setting forth the cause thereof, whenever he shall see sufficient cause,) or the said Commissioners shall have received any information of the insufficiency of any statement, the said Commissioners shall make an assessment on such person in such sum as, according to the best of their judgment, ought to be charged on him by virtue of this Act, which assessment shall be subject to an appeal, according to the directions hereinafter contained. When no statement or no sufficient statement is returned, the additional Commissioners to make an assessment according to the best of their judgment.

114. [[1]And be it enacted, that] whenever the additional Commissioners shall think it proper to refer any statement to the Commissioners for General Additional Commissioners may

[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

refer statements to Commissioners for General Purposes.

Purposes without making any assessment thereon, it shall be lawful for them so to do on delivering to the last-mentioned Commissioners the case in writing relative to such statement, as the same shall appear to the said additional Commissioners, with any matter in question between them, either as to law or fact; and the said Commissioners for General Purposes shall proceed to inquire into the merits of such statement, in like manner as they would have been hereby authorized to do in case the said additional Commissioners had made an assessment on such statement, and the party charged had appealed against the same, and thereupon an assessment shall be made according to the determination of the said Commissioners for General Purposes.

Inspector and surveyor may examine assessments, and erroneous assessments may be amended on their certificate.

115. [[1]And be it enacted, that] the inspector or surveyor, being sworn as aforesaid, shall and may at all seasonable times inspect and examine any assessment which shall be made by the additional Commissioners, before the delivery thereof to the Commissioners for General Purposes, and in case he shall discover any error in the same which in his judgment shall require amendment, he shall certify the same to the said additional Commissioners by whom the assessment shall have been made, and the said additional Commissioners, upon sufficient cause being shown to them, shall amend the same as in their judgment the case shall require.

Inspector or surveyor to state his objections to assessments, in writing, and to give notice to the party.

116. [[1]And be it enacted, that] in every case where the inspector or surveyor shall object to the amount of the duty charged by any assessment made by the additional Commissioners, which he is hereby empowered to do in any case upon sufficient cause, he shall state such objection in writing to the said additional Commissioners, who shall thereupon certify the same, together with the reasons for making such assessment, and any information they shall have obtained respecting the same, to the Commissioners for General Purposes; and the said inspector or surveyor shall also give such notice thereof to the party assessed as he is required to do by the [[2]said several Acts relating to the duties of assessed taxes] in cases of surcharge, in order that the party so charged may be at liberty to appear before the said Commissioners for General Purposes in support of such assessment.

Additional Commissioners to deliver certificates of assessments.

117. [[1]And be it enacted, that] the said additional Commissioners shall cause certificates of assessments to be duly made out, from time to time as the same shall be completed, distinguishing the ward, parish, or place within their respective districts for which each such assessment shall be made, which shall contain the names and surnames of the parties charged, and the sums which they respectively ought to pay by virtue of this Act, and shall cause such certificates to be entered in books provided for that purpose, according to such forms as shall be transmitted to them by the Commissioners of [[3]Stamps and Taxes]; and the said additional Commissioners shall sign such assessments, and from time to time deliver the same, so entered and signed, to the Commissioners for General Purposes, under cover sealed up, and shall also cause the statements returned to them by the parties so assessed, or by the assessors relating to such assessments, to be delivered at the same time, sealed up in the like manner, to the said Commissioners for General Purposes; provided that no assessment made by

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[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

[2] For these Acts the Taxes Management Act (43-4 V. c. 19) is now substituted (see sect. 7 of that Act).

[3] Now Inland Revenue, see the Income Tax Act, 1853 (16-7 V. c. 34).

additional Commissioners, or persons acting as such, shall be delivered to the respective parties until the expiration of fourteen days after the assessment, so signed as aforesaid, shall have been delivered to the Commissioners for General Purposes, or the persons acting as such, and the inspector or surveyor shall have had notice thereof.

Persons aggrieved may appeal.

118. [[1]And be it enacted, that] if any person shall think himself aggrieved by an assessment made by the said additional Commissioners, or by any objection to such assessment made by any surveyor or inspector as aforesaid, it shall be lawful for him, on giving ten days notice thereof in writing to the inspector or surveyor, to appeal to the Commissioners for General Purposes in the same district where such assessment was made, who shall hear and determine such appeal; and the Commissioners for General Purposes shall from time to time appoint days for hearing appeals as soon after any assessments shall be returned to them by the additional Commissioners as conveniently can be done, and the assessors shall cause notice of the days so appointed to be given to the respective appellants, and the meetings of the Commissioners for the purpose of hearing appeals shall be held from time to time, within the time limited by the said Commissioners, with or without adjournment; and no appeal shall be received after the time so limited, except on the ground of diminution of income, as herein mentioned: Provided always, that if any person shall be prevented, by absence, sickness, or other reasonable cause, to be allowed by the said Commissioners, for making or proceeding upon his appeal within the time so limited, it shall be lawful for the said Commissioners to give further time for that purpose, or to admit the same to be made by any agent, clerk, or servant on the behalf of such appellant.

For fixing the time for hearing appeals.

Notice to be given of the time limited for hearing appeals.

119. [[1]And be it enacted, that] in order that all appeals upon such assessments may be determined in due time, the Commissioners for General Purposes shall cause a general notice to be fixed up in their office or left with their clerk, and also to be affixed on or near to the door of the church or chapel of such parish or place, or of some adjoining parish or place, in cases requiring the same by reason of any such place having no church or chapel, limiting the time for hearing all appeals, and which appeals shall be limited to be heard within a reasonable time after the cause thereof shall have arisen; and no appeal shall be heard after the time limited in such notice, unless the appeal shall be made on behalf of any person who shall be absent out of the realm, or prevented by sickness from attending in person within the time so limited, in which cases it shall be lawful for the said Commissioners to postpone any such appeal from time to time, or to admit other proof than the oath of the party of the truth of the several matters required by this Act to be proved by his oath.

On appeal, and when objection made by the surveyor is allowed, the Commissioners to require a schedule.

120. [[1]And be it enacted, that] upon receiving notice of appeal against any assessment made as last aforesaid, and also in every case where the Commissioners for General Purposes shall see cause to allow the objection of such inspector or surveyor to such assessment, the said Commissioners shall direct their precept to the person appealing to return to them, within the time limited therein, a schedule containing such particulars as the said Commissioners shall demand, under the authority of this Act, for their information, respecting the property of such person, or the trade, manufacture, adventure,

[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

or concern in the nature of trade, or the profession, employment, or vocation respectively carried on or exercised by such person, and the amount of the balance of his profits and gains, distinguishing the particular amounts derived from each separate source before mentioned, or respecting the particulars of the deductions from any of such profits or gains made in such statements or schedules, and which the said Commissioners are hereby empowered and required to demand, at their discretion, whenever the same shall appear to them necessary for the purposes mentioned in this Act, and so from time to time until a complete schedule, to the satisfaction of the said Commissioners, of all the particulars required by them, shall be delivered; and every such precept, being delivered to or left at the last or usual place of abode of the person to whom the same shall be directed, shall be binding upon him according to the exigency thereof; or in case such person shall have removed from the jurisdiction of the said Commissioners, or cannot be found, or his place of abode shall not be known, then, upon fixing such precept on or near to the door of the church or chapel of the place where the Commissioners shall meet in the execution of this Act, such precept shall also be binding upon such person according to the exigency thereof, and such person shall make the return required by the said Commissioners within the time limited in such precept, under the penalty in this Act contained, and subject to such charge as the said Commissioners are hereby authorized to make in such case; to which schedule any inspector or surveyor sworn as aforesaid shall have free access at all reasonable times, and shall take such copies thereof or of any parts thereof or extracts from the same, as he shall think necessary for the due execution of this Act.

Inspector or surveyor may object to statements in schedule, giving notice to the party.

121. [[1]And be it enacted, that] it shall be lawful for the inspector or surveyor, sworn as aforesaid, within a reasonable time to be allowed by the said Commissioners for General Purposes, after he shall have had the examination of such schedules, to object to the same or any part thereof, and to state such objections in writing, and the cause thereof, to the best of his knowledge or information; and the said inspector or surveyor shall, in every case of objecting to any such schedule, deliver a notice in writing of such objection to the party to be charged, or leave the same at his last or usual place of abode, under cover sealed up and directed to such party, in order that he may, if he shall think fit, appeal from the same to the said Commissioners: Provided always, that no assessment shall be confirmed, nor any alteration therein be made, until the appeal upon such objection or assessment shall be heard and determined.

Commissioners overruling objection, or satisfied with the assessment or schedule, may confirm or alter the assessment accordingly.

122. [[1]And be it enacted, that] if, upon receiving the objection of such inspector or surveyor to any schedule, the said Commissioners for General Purposes shall see cause to disallow such objection, or if, upon the hearing of any such appeal as aforesaid, the said Commissioners shall be satisfied with the assessment made by the additional Commissioners, or after delivery of a schedule they shall be satisfied therewith, and shall have received no information of the insufficiency thereof, the said Commissioners for General Purposes shall direct such assessment to be confirmed or altered according to such schedule, as the case may require; provided that in every case where they shall think proper that the said statement on which the additional Commissioners made their assessment, or the schedule delivered to the

[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

Commissioners for General Purposes, should be verified, they shall direct the assessor to give notice to the person to be charged with the said duties to appear before them to verify the said statement or schedule in the manner hereinafter mentioned; and every such person is hereby required to appear accordingly before the said Commissioners, and, on oath as aforesaid, to verify the contents of his statement or schedule, and to sign and subscribe the same with his proper name; and such oath shall be, that the contents of such statement or schedule are true to the best of his judgment or belief, and that the same contains the just balance of the profits and gains arising from the source or sources therein contained, after making such reductions as are therein stated, and that no deduction whatever than such as is therein stated, and to such amount only as is therein stated, hath been made from the profits or gains accounted for; provided always, that such person shall be at liberty to amend his said statement or schedule before he shall be required to take such oath; and after such oath, and in every case where such statement or schedule shall not have been objected to as aforesaid, and the said Commissioners shall be satisfied therewith, they shall make an assessment according thereto, on the amount therein stated, at which the duty shall have been computed; and every such assessment, made after verification of such statement or schedule, shall be final and conclusive as to the matters contained in such statement or schedule.

Commissioners may put questions in writing touching any assessment or schedules, and receive answers.

123. [[1]And be it enacted, that] whenever the Commissioners for General Purposes shall be dissatisfied with any assessment returned by the additional Commissioners to them, or with any schedule delivered to them, or shall require further information respecting the same, it shall be lawful for the said Commissioners for General Purposes to put any question in writing touching such assessment, or the contents of such schedule, or touching any of the matters which ought to be contained therein, or any sums which shall have been set against or deducted from the profits or gains to be estimated in such assessment or schedule, and the particulars thereof, and to demand an answer in writing accordingly from and signed by the person to be charged, and so from time to time whenever the said Commissioners shall think the same necessary, and the said Commissioners for General Purposes shall from time to time issue their precept, requiring true and particular answers to be given to such questions within seven days after the service of such precept; and every such person shall make true and particular answers, in writing, signed by him, to such questions, within the time limited by such precept, or shall within the like period tender himself before the said Commissioners for General Purposes to be examined by them *vivâ voce* to such matters; and every person required to make such answers, or appearing before the said Commissioners to be examined as a party, or as the clerk, agent, or servant of such party, as herein is mentioned, shall be permitted to give his answers, either in writing as aforesaid or *vivâ voce*, without having taken any oath, and shall be at liberty to object to any question, and peremptorily to refuse answering the same; and the substance of such answers as he shall give *vivâ voce* shall, in his presence, be reduced into writing and read to him, and he shall be at liberty to alter any part thereof, and also to alter or amend any particular contained in his answers in writing, or in any schedule or declaration, before

[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

he shall be called upon to verify the same in the manner herein directed; and every such schedule shall be altered or amended as shall seem requisite, after such inquiry or examination.

Commissioners for General Purposes may call upon the party to verify their answers on examination upon oath;

124. [[1]And be it enacted, that] it shall be lawful for the Commissioners for General Purposes, in every such case as aforesaid, whenever they shall think the same necessary, to require the person upon whom any assessment hath been made by the additional Commissioners, with which the said Commissioners for General Purposes are dissatisfied, or from whom such schedule or answers in writing as aforesaid have been received, with which the said Commissioners are dissatisfied, to appear and verify the same, and, upon the appearance of such person, to permit him to alter or amend such schedule or answers, and thereupon to administer to such person the oath, hereinafter mentioned, and also to require any person who shall have been examined *vivâ voce* before them to verify his examination on oath, which any one of the said Commissioners is hereby empowered to administer, and such oath shall be, that the contents of the said statements or schedules are true to the best of his knowledge and belief and contain a full and true account of the balance of all the profits and gains of the deponent chargeable by this Act, to the best of his knowledge and belief, and a full and true account of every deduction made from his profits or gains in adjusting such balance, or that the contents of all such answers in writing as shall have been returned to the said Commissioners by him as the same are then stated or that the contents of his examination, as the same have been reduced into writing, are true; and every such oath shall be subscribed by the party taking the same.

may summon witnesses, and examine them upon oath.

125. [[1]And be it enacted, that] it shall be lawful for the Commissioners for General Purposes to summon in like manner any person, whom they shall think able to give evidence or testimony respecting the assessment made or to be made on any other person, to appear before them to be examined, and to examine every such person, who shall so appear before them on oath (except the clerk, agent, or servant of the person to be charged, or other person confidentially intrusted or employed in the affairs of such party to be charged, and who shall respectively be examined in the same manner and subject to the same restrictions as are hereinbefore provided for the *vivâ voce* examination of any party touching the assessments to be charged on him), which oath any one of the said Commissioners is hereby empowered to administer; and such oath shall be, that the testimony or evidence to be given by such person shall contain the whole truth, and nothing but the truth, in respect of the matter in question concerning which such evidence or testimony is to be given, and every such oath shall be subscribed by the person taking the same; and if any person, being duly summoned as aforesaid, shall refuse or neglect to appear before the said Commissioners at the time and place to be appointed for that purpose, or if any person, other than such clerk, agent, servant, or person confidentially intrusted or employed as aforesaid, being summoned, shall appear before the said Commissioners, but shall refuse to be sworn, or to subscribe such oath as aforesaid, or, having taken and subscribed such oath, shall refuse to answer any lawful question touching the matter depending before the said Commissioners, every person so offending shall forfeit any sum not exceeding twenty pounds.

Penalty for refusing to attend or to be examined.

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[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

Commissioners agreeing to make an assessment on the schedule may do so; but in certain cases Commissioners may make an assessment according to their judgment, which shall be final.

126. [[1]And be it enacted, that] if the Commissioners for General Purposes, or the major part of them present, after hearing all such appeals as shall be depending before them, or upon any objection made by the inspector or surveyor to any such assessment or schedule, whether such inquiry or examination as aforesaid shall have taken place or not, shall agree to make an assessment according to the statement contained in the said schedule, as the same shall have been returned, or altered or amended upon appeal as aforesaid, they shall direct an assessment to be made of the duties chargeable on the statement contained in the said schedule at the rate contained in this Act; and if the said Commissioners shall think proper to require a verification of the said schedule, they shall give notice in manner aforesaid to the party to appear before them to verify the same, and such verification shall be made by the party in such manner, and such assessment thereupon shall be made, as hereinbefore directed, which assessment shall be final and conclusive; but nevertheless, in every instance where any person shall have neglected or refused to return such schedule according to the exigency of the precept of the said Commissioners, or if any clerk, agent, or servant of such party as aforesaid, being summoned, shall have neglected or refused to appear before the Commissioners to be examined, or if such party, or his clerk, agent, or servant, as aforesaid shall have declined to answer any question put to him by the said Commissioners in writing or *vivâ voce*, or where the schedule delivered shall have been objected to as aforesaid, and such objection shall not have been appealed against within such reasonable time as is directed by this Act, or where any person, being required so to do, shall have neglected or refused to verify his statement or schedule, or his answers or examination in writing, or where the Commissioners shall agree as aforesaid to allow the objections, or any of them, made by such inspector or surveyor, it shall be lawful for the said Commissioners, and they are hereby required, in every such case, according to the best of their judgment, to settle and ascertain in what sums such person ought to be charged, and to make an assessment accordingly, which assessment shall be final and conclusive.

Where an assessment shall be increased, the Commissioners may charge the party with the penalty, not exceeding treble the amount of duty.

127. [[1]And be it enacted, that] in every case where the Commissioners for General Purposes shall have made any increased assessment upon the amount contained in the statement or schedule of the party to be charged, or shall at any time during the continuance of this Act discover that any increase ought to be made, whether upon the surcharge of the inspector or surveyor, or from his information, or otherwise, it shall be lawful for them to charge such person in a sum not exceeding treble the amount by which the duties shall have been increased; (that is to say,) where the party shall have refused or neglected to deliver any statement or schedule, then in a sum not exceeding treble the amount of the sum which, according to the rate prescribed in Schedule (D.), such person, in the judgment of the said Commissioners, ought to be charged at, to be added to the assessment, and applied as directed by this Act in other cases of increased assessments, and in case a statement or schedule shall have been so delivered, then in a sum not exceeding treble the amount beyond the amount contained in such statement or schedule, unless such person shall in every such case make it appear to the satisfaction of the said Commissioners that the omission complained of did not

[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

proceed from any fraud, covin, art, or contrivance, or any gross or wilful neglect.

Penalty on persons neglecting to deliver schedules, or attend summons of Commissioners.

128. [[1]And be it enacted, that] if any person required by the Commissioners for General Purposes to make out and deliver any schedule to the person to whom the same ought to be delivered in pursuance of this Act shall refuse or neglect so to do, or shall refuse or neglect to appear before the said Commissioners, or to verify upon oath before them any statement or schedule by him delivered, within the time limited by such Commissioners, in pursuance of this Act, every such person so offending shall forfeit any sum not exceeding twenty pounds, and treble the duty at which he ought to be assessed.

Schedules may be amended.

129. Provided always, [[1]and be it enacted,] that if any person who shall have delivered a statement or schedule shall discover any omission or wrong statement therein, it shall be lawful for him to deliver an additional statement or schedule rectifying such omission or wrong statement, and such person shall not afterwards be subject to any proceeding by reason of such omission or wrong statement; and if any person shall not have delivered a statement or schedule within the time limited by the Commissioners for that purpose, it shall be lawful for him to deliver a statement or schedule, in manner herein directed, at any time before a proceeding shall be had to recover the penalty herein mentioned, and no proceeding shall be afterwards had for recovering such penalty; and if any proceeding shall have been actually had before the Commissioners for recovering such penalty, it shall be lawful for the same Commissioners, on due proof to their satisfaction that no fraud or evasion whatever was intended, to stay such proceedings, either on the terms of paying or without paying the costs then incurred, as the Commissioners shall think fit; and if any proceeding shall have been commenced in any Court, it shall be lawful for the Commissioners to certify, that in their judgment, no fraud or evasion was intended by the party making such omission, and it shall be lawful for any judge of such Court, on a summary application, to stay such proceedings on such terms as he shall think fit; or if such person shall have delivered an imperfect statement or schedule, and shall give to the Commissioners a sufficient reason why a perfect statement or schedule cannot be delivered, the said Commissioners, being satisfied therewith, shall give further time, and so from time to time, for the delivery of such statement or schedule; and such person shall not be liable to any penalty for not having delivered such statement or schedule within the time before limited, in case such person shall have delivered as perfect a statement or schedule as from the nature of the case he was enabled to give, and so from time to time as long as the Commissioners shall grant further time as aforesaid.

Parties assessed or surcharged to the duties in Schedule (D.) may appeal to Special Commissioners.

130. Provided always, [[1]and be it enacted,] that in any case in which an appeal is allowed to be made to the Commissioners for General Purposes against any assessment of the duties contained in Schedule (D.) of this Act, or against any objection of the inspector or surveyor to such assessment, or against any surcharge of the said duties, it shall be lawful for the person assessed or charged, if he shall think fit, instead of appealing to the said Commissioners for General Purposes, to appeal to the Commissioners for Special Purposes, upon giving notice thereof in writing to the inspector or surveyor within the time limited for notices of appeal to the Commissioners

[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

for General Purposes in similar cases, and thereupon every such appeal shall be heard and determined by two or more of the Commissioners for Special Purposes who shall be directed by the Commissioners of [1Stamps and Taxes] to hear appeals in the district in which such appellant shall be chargeable, and the determination of the said Commissioners for Special Purposes shall be final and conclusive in the matter: Provided always, that no person who shall claim the exemption hereinafter granted to persons whose annual income is less than one hundred and fifty pounds shall be allowed to appeal to the said Commissioners for Special Purposes, but that every such claim shall be determined by the Commissioners for General Purposes as hereinafter directed.

Claims of exemption for income being less than 150*l.* to be determined by General Commissioners.

131. Provided also, [2and be it enacted,] that it shall be lawful for any person chargeable to the duties contained in the said Schedule (D.), and who shall not claim the said exemption hereinafter granted, to require, if he shall think fit, that all proceedings in order to an assessment upon him, in respect of profits and gains chargeable under the said schedule, shall be had and taken before the Commissioners for Special Purposes in the manner hereinafter directed, instead of the additional Commissioners or the Commissioners for General Purposes, provided he shall deliver a notice of such request, together with the list, declaration, and statement of such profits and gains, to the assessor of the parish or place, to be by him transmitted to the inspector or surveyor of the district in which the same shall be chargeable, within the time to be limited by the general notice hereinbefore directed to be given for delivery of all such lists and statements as aforesaid; and thereupon the said inspector or surveyor shall examine the said list and statement, and shall compute and assess the duties which, according to his judgment, shall be chargeable upon the party under the said Schedule (D.), and shall make a certificate of such assessment, and deliver the same, together with the said list, declaration, and statement, to the Commissioners for Special Purposes, who shall examine the same, and make or sign and allow such an assessment of the said duties as shall appear to them to be just and proper, subject to an appeal by the party to be charged, or by the inspector or surveyor objecting to such assessment, in like manner and under the like rules and regulations as in cases of appeal against assessments made by the said additional Commissioners; and every such appeal shall be heard and determined by the Commissioners for Special Purposes directed by the Commissioners of [1Stamps and Taxes] to hear appeals in such district; provided that if either the party to be charged, or the inspector or surveyor, shall apprehend the determination of the said Commissioners for Special Purposes on such appeal to be erroneous in any particular, and shall then express himself dissatisfied therewith, the said Commissioners, if required by him, shall state specially and sign the case on which the question arose, together with their determination thereon, and transmit the same to the Commissioners of [1Stamps and Taxes] for their opinion; and the said last-mentioned Commissioners shall, with all convenient speed, state and subscribe their opinion on the case so transmitted, and according to such opinion the assessment which shall have been the subject of appeal shall be altered or confirmed, and the decision of the Commissioners of [1Stamps and

Persons chargeable under Schedule (D.) may require the proceedings in order to an assessment to be had before Special Commissioners.

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[1] Now Inland Revenue, see the Income Tax Act, 1853 (16-7 V. c. 34), s. 9.

[2] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

Taxes] shall be final and conclusive in the matter; and in every case in which an assessment shall be made by the said Commissioners for Special Purposes they shall notify the amount thereof to the party assessed, who shall cause the same to be paid to the Receiver-General of [[1] Stamps and Taxes] or the proper officer for receipt in England or Scotland,[2] at such time or times and in such manner as the said Commissioners shall direct; and in default of such payment the said Commissioners shall make a duplicate of such assessment, and deliver the same, together with their warrant for levying the amount thereof, to the collector of the duties appointed by the Commissioners for General Purposes for the parish or place in which the party assessed shall reside, and such collector is hereby authorized and required to levy and raise the duties so assessed according to the exigency of such warrant.

Powers and authorities of General Commissioners may be exercised by Special Commissioners in certain cases.

132. [[3]And be it enacted, that] whenever by this Act authority is given to the Commissioners for Special Purposes to make, sign, or allow any assessment, or to hear any appeal, then and in every such case all the powers and authorities, rules and regulations, which under or by virtue of this or any other Act may be exercised or put in force by the said additional Commissioners or the said Commissioners for General Purposes, or by or under their warrant, order, or direction respectively, with relation to the making, signing, or allowing of any assessment, or to the proceedings on any appeal before them, or to the collecting, levying, and receiving of any of the duties hereby granted, shall and may lawfully be exercised and put in force by the said Commissioners for Special Purposes, or by or under their warrant, order, or direction, with reference to any assessment to be made, signed, or allowed by such last-mentioned Commissioners, or any appeal to be heard or determined by them.

Abatement on account of diminution of income, how to be allowed.

133.[3] And be it enacted, that if within or at the end of the year current at the time of making any assessment under this Act, or at the end of any year when such assessment ought to have been made, any person charged to the duties contained in Schedule (D.), whether he shall have computed his profits or gains arising as last aforesaid on the amount thereof in the preceding or current year, or on an average of years, shall find, and shall prove to the satisfaction of the Commissioners by whom the assessment was made, that his profits and gains during such year for which the computation was made fell short of the sum so computed in respect of the same source of profit on which the computation was made, it shall be lawful for the said Commissioners to cause the assessment made for such current year to be amended in respect of such source of profit, as the case shall require, and in case the sum assessed shall have been paid, to certify under their hands to the Commissioners for Special Purposes at the Head[4] Office for Stamps and Taxes in England the amount of the sum overpaid upon such first assessment, and thereupon the said last-mentioned Commissioners shall issue an order for the repayment of such sum as shall have been so overpaid, and such order shall be directed to the Receiver General of [[1] Stamps and Taxes,] or to an officer for receipt or collector of the duties granted by this Act, or to a distributor or sub-distributor of stamps, and shall authorize and require

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[1] Now Inland Revenue, see the Income Tax Act, 1853 (16-7 V. c. 34), s. 9.
[2] Ireland is now added, see the Income Tax Act, 1853 (16-7 V. c. 34).
[3] Section 133 is repealed by the Finance Act, 1907 (7 Ed. VII. c. 13), except so far as it is referred to or incorporated in any other enactment.
[4] Now the Chief Office of Inland Revenue.

the repayment of the said sum so overpaid as aforesaid, in like manner as is hereinbefore provided with respect to the allowances to be granted under No. V. of Schedule (A.) of this Act.

Abatement to be allowed when persons shall cease to exercise any trade or shall die before the end of the year.

134. [[1]And be it enacted, that] in case any person charged to the said duties under Schedule (D.), whether the computation thereon shall have been made on the profits of one year or on an average, as herein allowed, shall cease to exercise the profession, or to carry on the trade, employment, or vocation, in respect whereof such assessment was made, or shall die, or become bankrupt or insolvent, before the end of the year for making such assessment, or shall from any other specific cause be deprived of or lose the profits or gains on which the computation of duty charged in such assessment was made, it shall be lawful for such person, or his executors or administrators, to make application to the Commissioners for General Purposes of the district, within three calendar months after the end of such year, and on due proof thereof to their satisfaction the said Commissioners shall cause the assessment to be amended, as the case may require, and give such relief to the party charged, or his executors or administrators, as shall be just, and in cases requiring the same the said Commissioners shall direct, in manner before mentioned, repayment to be made of such sum as shall have been overpaid on the assessment amended or vacated: Provided always, that where any person shall have succeeded to the trade or business of the party charged, no such abatement shall be made, unless it shall be proved to the satisfaction of the said Commissioners that the profits and gains of such trade or business have fallen short from some specific cause, to be alleged to them and proved, since such change or succession took place, or by reason thereof, but such person so succeeding to the same shall be liable to the payment of the full duties thereon without any new assessment.

Commissioners to be assessed to duties under Schedule (D.) as other persons.

135. [[1]And be it enacted, that] the persons acting as Commissioners in the execution of this Act shall be charged and assessed to the duties contained in Schedule (D.), if liable thereto, in like manner as any other person may be charged and assessed to the said duties: Provided always, that any Commissioners whose statement or schedule shall be under consideration, or shall be concerned or interested therein, either for himself or for any other person, in any character before described, shall have no voice, and shall not be present, except upon an appeal, for the purpose of being examined *vivâ voce* by the Commissioners then having his assessment or schedule under consideration, but shall withdraw during the consideration and determination thereof.

Not to be present during the consideration of their statements.

Commissioners to enter their assessments in books, and send accounts to the Office of Stamps and Taxes.

136. [[1]And be it enacted, that] the Commissioners for General Purposes acting in relation to the duties contained in Schedule (D.) shall, in their respective books of assessment, enter and cause to be entered the several amounts of the sums assessed by them; and they shall from time to time make out, and transmit to the Commissioners of [[2]Stamps and Taxes,] accounts of the amount of duty assessed by them, distinguishing the amount charged on each person, which accounts shall severally be made out, with the particulars required by this Act; and they shall also from time to time make out, and transmit to the said Commissioners of [[2]Stamps and Taxes,] lists containing the name, description, and place of residence of every person

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[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

[2] Now Inland Revenue, see the Income Tax Act, 1853 (16-7 V. c. 34), s. 9.

assessed by them respectively, as soon as the same conveniently can be done, which lists shall be made out according to an alphabetical arrangement of the respective parishes or places of residence in their respective districts.

Assessments under Schedule (D.) to be entered, and certificates of the amount to be delivered by a number or letter, without the name of the parties, where they intend payment to the officer for receipt.

137. [[1]And be it enacted, that] all assessments upon profits or gains under Schedule (D.) made by the Commissioners for General Purposes shall be entered in books, with the names and descriptions of the persons, corporations, companies, or societies to be charged therewith, and their respective places of abode set opposite thereto, and which entries shall respectively be numbered progressively, or lettered, or distinguished by numbers or letters, as the said Commissioners shall think proper; and that when and as soon as the said Commissioners shall have caused to be made any such entry in such book, in case the person charged by such assessment shall have declared his intention to pay the duty to the proper officer for receipt within the time limited by this Act for payment thereof, and in case the said Commissioners shall be satisfied with such declaration, they shall deliver to such person, or to such other person as shall be there attending on his behalf, a certificate under the hands of two or more of such Commissioners, specifying the amount of the sums to be paid within one year upon such assessment; and every such certificate shall be numbered or lettered with the same number or letter as the entry in the book of the said Commissioners to which such certificate shall relate shall be marked and numbered or lettered, without naming or otherwise describing the person charged thereby; which certificate shall, on production thereof, be a sufficient authority to the said officer for receipt from time to time to receive from any person bearing and producing such certificate the amount of the sums therein contained, in such proportions thereof as by this Act are made payable by instalments, and at the times by this Act appointed for payment thereof, or in advance; and on the payment of the sums contained in any such certificate, or any proportion thereof, the said officer for receipt shall give certificates for the same acknowledging the receipt of the sum paid on account of the certificate of the said respective Commissioners by the number or letter marked thereon as before directed.

Commissioners to deliver warrants to collectors, except where parties are assessed by a number or letter.

138. [[1]And be it enacted, that] in all cases where the Commissioners shall not have received a declaration of the intended payment to the officer for receipt as aforesaid of the duty to be charged under Schedule (D.), or shall not be satisfied with such declaration, they shall deliver a duplicate of the assessments to the collector, with the names and descriptions of the parties charged therewith, together with their warrants for collecting the same, in such form and under the like powers as they are authorized to collect the duty under any of the other schedules contained in this Act; and if after the receipt of any such declaration the duties shall not be duly satisfied and paid accordingly, the said Commissioners shall cause the names of the defaulters, and the amount of duty assessed on each, to be inserted from time to time in the duplicate of such collector; and the warrant for collecting the same shall be of the like force and effect as if such names and sums had been inserted therein at the time of issuing such warrant.

Duplicates to be delivered to officers for receipt, and where

139. [[1]And be it enacted, that] it shall be lawful for the respective Commissioners for General Purposes to issue out and deliver to the respective officers for receipt duplicates of the assessments made by them, containing the sums assessed on every person to whom a certificate hath been delivered

[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

by letter or number, together with the number or letter set opposite thereto in their respective books before mentioned, without naming such persons, with their warrants for receiving the duties charged by such Commissioners respectively when the same shall become payable as aforesaid; and all such sums shall be paid to the respective officers for receipt, and such part thereof as shall not be so paid to them may be levied and collected as herein is mentioned; and if not so paid, levied, or collected, the same shall be recoverable as a debt to the Queen's Majesty, with full costs of suit, and all charges and expenses attending the same.

assessments are made under a number or letter, with warrants for receiving the duties.

140. [[1]And be it enacted, that] the duties payable on such last-mentioned assessments shall be paid to the proper officer for receipt, by such instalments as by this Act is directed, before the respective days appointed for such payments, according to the regulations of this Act, or by three or two instalments, or in one sum in full, as the parties shall choose; and the certificates hereby required to be given on such payments shall be delivered to the respective Commissioners, or to one or more of them, or to their clerk, at their office, before the times when the same are hereby made payable, taking his or their receipt for the same, which receipt shall be a sufficient discharge for the money so paid in satisfaction of so much of the assessment as shall be mentioned in such certificate to be so paid; and if any person shall neglect to pay such duties at the time and in the manner hereby directed for payment thereof, or, having paid the same, shall neglect to deliver the certificate required to be given on such payment as hereinbefore directed, it shall be lawful for the Commissioners for General Purposes, and they are hereby required, to deliver a duplicate of all sums assessed on any person who shall have made default in paying or accounting for the payment of the same, together with their warrant, to such collector as they shall appoint to levy the sum in arrear and unpaid, and such duplicate shall be made out, and such sums shall be levied, according to the regulations of the [[2]said Acts relating to the duties of assessed taxes].

Persons charged to pay the duties to the proper officer for receipt before the days appointed by the Act: and in default the duties may be levied.

141. [[1]And be it enacted, that] it shall be lawful for any person to pay in advance to the Receiver-General of [[3]Stamps and Taxes,] or to the proper officer for receipt, any sum of money charged as aforesaid, and to require a certificate acknowledging such payment; and it shall be lawful for the said Receiver-General or officer for receipt, on production of the notice or certificate of such assessment at the time of payment of the said duty in advance (the sum so paid not in any case to be less than the sum which appears by such certificate to be payable by two instalments), to make an allowance, at the rate[4] of four pounds per centum per annum, out of the sum so paid in advance, calculated upon such sum for the period by which the same shall be paid sooner than the period prescribed by this Act for the payment thereof; and in every such case the said Receiver-General or officer for receipt shall give the person paying the same a certificate of such payment, specifying therein the number of instalments thereby discharged, and the amount of the allowance for such prompt payment, and referring

Duties may be paid in advance, subject to discount.

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[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

[2] For these Acts the Taxes Management Act (43-4 V. c. 19) is now substituted. See sect. 7 of that Act.

[3] Now Inland Revenue, see the Income Tax Act, 1853 (16-7 V. c. 34), s. 9.

[4] The rate is now 2½ per cent. instead of 4 per cent., the Revenue Act, 1889 (52-3 V. c. 42), s. 10.

thereby to the notice or certificate of assessment then produced, and the name, number, or letter therein mentioned; and all such allowances shall be made at the time of paying the said duties; and such certificates as aforesaid, being delivered at the respective offices of the Commissioners for executing this Act, shall be received by them as cash in discharge of the assessments, and shall be allowed to them in their accounts.

One certificate or separate certificates shall be given as required for the duties so paid.

142. [[1]And be it enacted, that] upon the payment of any such sum of money as aforesaid the said Receiver-General or officer for receipt shall give such certificate as aforesaid for the whole of the sum so paid, or separate certificates in like form for such portions thereof as shall be required, which certificates shall severally be cut off indentwise from the counter-cheques thereof, which counter-cheques are to remain with the said Receiver-General or officer for receipt; and every such certificate shall be denominated in the body thereof to be on account of payments made in discharge of the duties assessed by virtue of this Act; and upon the delivery of any such certificate as last aforesaid to the said Commissioners for General Purposes, or at their office, in discharge of the whole or any part of the said duties assessed or charged upon the person delivering such certificate, the said Commissioners or their clerk shall, if required, indorse in writing on the back of the certificate to be given by them or him in such case the amount of the number of instalments of the said duties to be discharged by such payments, which receipts of the said Commissioners or their clerks as aforesaid shall be received, without further proof, as evidence of such payments, in all Courts and places and before all persons whatever.

On delivery of certificates to the Commissioners, the clerk to give a receipt, which shall be a discharge for the duties.

After assessment made by Special Commissioners of duties under Schedule (D.) parties may compound thereon for three years.

143. [[2]And whereas it is expedient to relieve persons who may be willing to compound on the terms hereinafter mentioned for the duties on the profits and gains described in the said Schedule (D.) from making any further return of such profits and gains chargeable in the second and third years of the term limited for the continuance of this Act; be it enacted, that every person desirous of compounding for the said duties shall deliver the list and statement of his profits and gains chargeable under the said Schedule (D.) in the first year of this Act to the assessor of the parish or place in which such profits are chargeable, in order to an assessment of the duties thereon being made by the said Commissioners for Special Purposes, and such person shall at the same time also deliver to the said assessor a notice signed by such person of his desire to compound for the duties thereon in the manner allowed by this Act; and when such assessment shall have been made by the said Commissioners (any appeal allowed by this Act and made against the same having been first determined) it shall be lawful for the said Commissioners for Special Purposes to contract and agree with such person for a composition for the said duties, on the terms hereinafter mentioned, for the period of three years, limited for the continuance of this Act, provided such person shall enter into and sign a contract of composition within the space of one calendar month next after the making of such assessment shall have been notified to him, and his appeal against the same (if any) shall have been determined; and the terms of such composition shall be, the payment in each and every year of the said term of the amount of the said assessment

Terms of composition.

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[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

[2] Section 143 is repealed by the Statute Law Revision (No. 2) Act, 1874 (37-8 V. c. 96).

so made as aforesaid, together with an addition thereto at and after the rate of one shilling for every twenty shillings of the sum assessed as aforesaid, which addition shall be made by the said Commissioners to the said assessment so made for the first year of the said term, and in each subsequent year thereof the assessment of the said duties under Schedule (D.), upon the person who shall have entered into such contract of composition, shall be made by the Commissioners for Special Purposes in a sum equal to the aggregate amount of the said first year's assessment, with the said additional rate thereon; and it shall not be necessary for such person to deliver any further list, declaration, or statement of profits described in the said Schedule (D.), during the said term of composition: Provided always, that if the person upon whom such assessment as aforesaid shall have been made shall neglect or refuse to enter into and sign such contract of composition within the time herein limited for that purpose, the assessment so made, without the said additional rate, shall be collected, levied, and recovered in like manner as any other assessment made by the Commissioners executing this Act.

Not necessary to deliver statements in subsequent years.

On refusal to sign contract, assessment to be collected in the usual course.

144.[1] And be it enacted, that the contract of composition may be made in the following form; *videlicet*,

Form and requisites of contract of composition.

"WHEREAS an assessment of the duties on profits and gains chargeable under Schedule (D.) of an Act passed in the year of Queen Victoria, intituled an act [set forth the title of this Act], hath been duly made by two of the Commissioners for Special Purposes acting in the execution of the said Act, upon A.B. of, &c., in the sum of for the year ending on the fifth day of April one thousand eight hundred and forty-three, and the said A.B. is desirous of compounding for the said duties, as allowed by the said Act, for the term hereinafter mentioned:

We, the undersigned, two of the Commissioners for Special Purposes acting in the execution of the said Act, have, by virtue and in pursuance of the power and authority thereby given to us in this behalf, contracted and agreed with the said A.B. for a composition for the said duties, chargeable or which may become chargeable upon him under the said Schedule (D.) during the term of three years, to be computed from the fifth day of April one thousand eight hundred and forty-two, and the following are the terms of such composition; (that is to say,)

The said A.B., his heirs, executors, or administrators, shall well and truly pay to for the use of her Majesty, in each and every year of the said term, the sum of (being the amount of the said assessment, together with an addition thereto at and after the rate of one shilling for every twenty shillings of the sum assessed as aforesaid) by four equal quarterly instalments; (*videlicet*;)

First instalment, on or before the twentieth day of June;
Second instalment, on or before the twentieth day of September;
Third instalment, on or before the twentieth day of December;
Fourth instalment, on or before the twentieth day of March; in each and every year of the term aforesaid:

Provided always that the instalments now due and payable according

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[1] Section 144 is repealed by the Statute Law Revision (No. 2) Act, 1874 (37-8 V. c. 96).

to the tenor of this contract shall be paid, together with the instalment, on or before the day of now next ensuing.

Dated this day of .

(Signed) { Commissioners for Special Purposes under the Act Vict. c.

Witness to the signing hereof } by the said A.B. }

A.B. the party hereto.

Inspector [*or* Surveyor] of Taxes."

And every such contract of composition shall be made in two parts, which shall be severally signed by two Commissioners for Special Purposes, and by the person compounding, the signing whereof by such person shall be witnessed and attested by the inspector or surveyor of the district in which such person shall reside, or be chargeable for the said duties, and one of such parts of the said contract so signed shall be delivered to the person compounding, and the other part shall be transmitted to the Head Office for Stamps and Taxes in England or Scotland, as the case may be; and every such contract shall be an authority for the Commissioners for Special Purposes to make an assessment on the party compounding for each respective year of the said term of composition in the sum specified in such contract as the annual amount to be paid for such composition, and to cause the same to be collected, levied, and paid over at such times and in such manner, and by all or any of such ways and means, as are herein respectively appointed, prescribed, or authorized in relation to any other assessment made by Commissioners acting in the execution of this Act: Provided always, that whether any such assessment as hereinbefore authorized to be made on the party compounding shall be made or not, the sum specified in such contract of composition as the annual amount to be paid by the party compounding, and the several instalments thereof when and as they respectively become payable according to the tenor and effect of such contract, shall be a debt due to the Queen's Majesty from the said party compounding, his heirs, executors, and administrators, and shall be recoverable by all or any of the ways or means by which any such debt may be recovered together with full costs of suit, and all charges and expenses attending the same: Provided also, that if any person who shall have compounded as aforesaid shall die, or become bankrupt or insolvent, before the expiration of the said term of three years, his contract of composition shall cease and determine on the 5th day of April next after his death, bankruptcy, or insolvency, save and except as to any instalment of duty which before the said day shall have become payable and shall then remain unpaid.

The contract to be an authority for making an annual assessment on the party compounding in the amount specified; and the amount to be a debt to her Majesty, and recoverable accordingly.

Composition to cease on 5th April next after the death, bankruptcy, or insolvency of compounder.

Penalty for fraud in compounding.

145.[1] And be it enacted, that if any person who shall propose to compound for the duties chargeable under Schedule (D.) of this Act shall wilfully make or deliver any false list, declaration, or statement of profits or gains described in the said schedule, or wilfully conceal or omit to state any of such his profits or gains, or any part or portion thereof, or any other matter or thing required by this Act to be stated in such list, declaration or statement, or if any person shall by any fraudulent means procure an assessment to be made upon him for a less amount of the said duties than he shall be chargeable with, in order to compound thereon, or if any person shall by any fraudulent

[1] Section 145 is repealed by the Statute Law Revision (No. 2) Act, 1874 (37-8 V. c. 96).

means whatever cause or procure a contract of composition to be made or entered into with him for a less amount of duty than he ought to be charged with, every person so offending in any of the cases aforesaid shall forfeit the sum of fifty pounds, and the contract of composition, if any shall have been made with such person, shall be void and of no effect, and the party shall be charged and assessed as if no such contract had been made: Provided nevertheless, that any sum of money which may have been paid under or in pursuance of such contract shall be forfeited to her Majesty.

Duties in Schedule (E.), and Rules, part of this Act;

146. [[1]And be it enacted, that] the duties hereby granted contained in the Schedule marked (E.) shall be assessed and charged under the following rules, which rules shall be deemed and construed a part of this Act, and to refer to the said last-mentioned duties, as if the same had been inserted under a special enactment.

SCHEDULE (E.).

Rules for charging the said Duties.

to be charged for all salaries, fees, or profits;

First.—The said duties shall be annually charged on the persons respectively having, using, or exercising the offices or employments of profit mentioned in the said Schedule (E.), or to whom the annuities, pensions, or stipends mentioned in the same schedule shall be payable, for all salaries, fees, wages, perquisites, or profits whatsoever accruing by reason of such offices, employments, or pensions, after deducting the amount of duties or other sums payable or chargeable on the same by virtue of any Act of Parliament, where the same have been really and *bonâ fide* paid and borne by the party to be charged; and each assessment in respect of such offices or employments shall be in force for one whole year, and shall be levied for such year without any new assessment, notwithstanding a change may have taken place in any such office or employment, on the person for the time having or exercising the same; provided that the person quitting such office or employment, or dying within the year, or his executors or administrators, shall be liable for the arrears due before or at the time of his so quitting such office or employment, or dying, and for such further portion of time as shall then have elapsed, to be settled by the respective Commissioners, and his successor shall be repaid such sums as he shall have paid on account of such portion of the year, as aforesaid; and each assessment in respect of such annuity, pension, or stipend shall be in force for one whole year, unless the same shall cease or expire within the year, by lapse, death, or otherwise, from which period the assessment thereon shall be discharged:

after deducting duties chargeable on the same by Act of Parliament.

Provision respecting arrears on quitting office or dying.

Duties to be assessed for all offices in the place where the Commissioners execute their offices.

Second.—The said duties to be assessed by the respective Commissioners for all the offices in each department in the place where the said Commissioners shall execute their offices, although certain of the offices in the same department may be executed elsewhere, and shall be due and payable from the respective officers, and their respective successors, for the time being:

Third.—The said duties shall be paid on all public offices and employments

Description

[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

of offices to be charged.

of profit of the description hereinafter mentioned within Great Britain[1]; (*videlicet,*) any office belonging to either House of Parliament, or to any court of justice, whether of law or equity, in England or Scotland,[2] Wales, the Duchy of Lancaster, the Duchy of Cornwall, or any criminal or justiciary or ecclesiastical Court, or Court of Admiralty, or Commissary Court, or court martial; any public office held under the civil government of her Majesty, or in any county palatine, or the Duchy of Cornwall; any commissioned officer serving on the staff, or belonging to her Majesty's army, in any regiment of artillery, cavalry, infantry, royal marines, royal garrison battalions, or corps of engineers or royal artificers; any officer in the navy, or in the militia or volunteers; any office or employment of profit held under any ecclesiastical body, whether aggregate or sole, or under any public corporation, or under any company or society, whether corporate or not corporate; any office or employment of profit under any public institution, or on any public foundation, of whatever nature or for whatever purpose the same may be established; any office or employment of profit in any county, riding, or division, shire, or stewartry, or in any city, borough, town corporate, or place, or under any trusts or guardians of any fund, tolls, or duties to be exercised in such county, riding, division, shire, or stewartry, city, borough, town corporate, or place; and every other public office or employment of profit of a public nature:

Fees or other emoluments may be estimated on the profits of the preceding year, or on an average of three years.

Fourth.—The perquisites to be assessed under this Act shall be deemed to be such profits of offices and employments as arise from fees or other emoluments, and payable either by the Crown or the subject, in the course of executing such offices or employments, and may be estimated either on the profits of the preceding year, or of the fair and just average of one year of the amount of the profits thereof in the three years preceding; such years in each case respectively ending on the fifth day of April in each year, or such other day of each year on which the accounts of such profits have been usually made up:

The duties on salaries, fees, pensions, &c. payable at any public office to be stopped in case of non-payment.

Fifth.—In all cases where any salaries, fees, wages, or other perquisites or profits, or any annuities, pensions, or stipends, shall be payable at any public office, or by any officer of her Majesty's household, or by any of her Majesty's receivers or paymasters, or by any agent employed in that behalf, the duties chargeable under this Act in respect of such salaries, fees, wages, perquisites, or profits, or in respect of such annuities, pensions, or stipends, shall be detained and stopped out of the same or out of any money which shall be payable upon such salaries, fees, wages, perquisites, or profits, or upon such annuities, pensions, or stipends, or for the arrears thereof, whenever the same shall happen, and be applied to the satisfaction of the duties on such offices or employments, or on such annuities, pensions, or stipends, respectively, (not being otherwise paid,) in the manner directed by this Act; and whenever the same so payable shall be assessed by the Commissioners for General Purposes in their respective districts, they shall transmit an account of the amount of the duty assessed to the office where the same are payable, in order that the amount so assessed may be there stopped or detained:

Duties on

Sixth.—In all cases where the salaries, fees, wages, allowances, or profits

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[1] Now the United Kingdom, see the Income Tax Act, 1853 (16-7 V. c. 34).
[2] Ireland is now added, see the Income Tax Act, 1853.

of any officer chargeable to the said duties shall not arise out of any of the offices mentioned in the foregoing rule, but shall arise from any other office or employment of profit chargeable to the said duties, and the salaries, fees, wages, perquisites, or profits shall be payable at such office by any officer thereof, or by any receiver of the same respectively, or by any agent employed in that behalf, the duties chargeable under this Act in respect of such salaries, fees, wages, perquisites, or profits shall be detained and stopped out of the same, or out of any money which shall be paid upon such salaries, fees, wages, perquisites, or profits, or for arrears thereof, whenever the same shall happen, and be applied to the satisfaction of the duties (not otherwise paid) in the manner directed by this Act:

salaries, &c. not arising from offices mentioned in the foregoing rule to be stopped by persons paying such salaries, fees, &c.

Seventh.—Such portion of the said duties on offices or employments of profit, or on annuities, pensions, or stipends, as are charged with any sum of money payable to any other person, shall be deducted out of the sum payable to such other person, as a like rate on such sum would amount unto; and all such persons, their agents and receivers, shall allow such deductions and payments upon receipt of the residue of such sums:

Such portion of the duties as are charged with sums payable to any other persons to be deducted out of such sums.

Eighth.—Such portion of the said duties charged on any office or employment of profit executed by any deputy or clerk, or other person employed under the principal in such office, and paid by such principal out of the salary, fees, wages, perquisites, or profits of such principal, shall be deducted out of the salary or wages so payable as a like rate on such salary or wages would amount unto; and all such deputies, clerks, and other persons so employed shall allow to their respective principals such deductions and payments upon the receipt of the residue of such salaries or wages:

Duty paid by the principal in an office upon salary paid to his deputy or clerk to be deducted out of such salary.

Ninth.—In estimating the duty payable for any such office or employment of profit, or any pension, annuity, or stipend, all official deductions and payments made upon the receipt of the salaries, fees, wages, perquisites, and profits thereof, or in passing the accounts belonging to such office, or upon the receipt of such pension, annuity, or stipend, shall be allowed to be deducted, provided a due account thereof be rendered to the said Commissioners, and proved to their satisfaction:

Payments on receipt of salaries, &c. or in passing accounts, or upon the receipt of pensions, to be deducted.

Tenth.—In all cases where any annuity or pension shall be payable out of any particular branch of the public revenue, and at the office of that branch of revenue, the Commissioners acting for that department shall have authority to assess and levy the same as a salary or wages payable thereout.

Pensions payable out of a branch of revenue to be charged by the Commissioners there.

147. [[1]And be it enacted, that] every person to be assessed for his office or employment shall be deemed to have exercised the same at the head office of the department under which such office or employment shall be held, and shall be rated for such office or employment as if exercised at such head office, although the duties of such office or employment shall be performed, or the profits or any part thereof arising from such office or employment shall be payable elsewhere, within or out of Great Britain;[2] and all assessments made on any inferior officer, wherever he shall exercise his office or employment, shall

Persons assessed for offices to be deemed to have exercised the same at the head office.

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[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

[2] Now the United Kingdom, see the Income Tax Act, 1853 (16-7 V. c. 34).

In what departments officers shall be assessed.

be rated accordingly in the same district where such head office shall be established; and every office shall be deemed to belong to and to be assessed by or under the principal officers of that department by or under whom the appointment to such office was made, provided that where such appointment shall be made by any inferior officer in any department, then such office shall be assessed by the same Commissioners by whom such inferior officer shall be chargeable for his office: Provided that where any such appointment shall be held under the Great Seal or Privy Seal either of England or Scotland, or shall be made under the Royal Sign Manual, or where any such appointment shall be under the hands or seals of the [[1]Commissioners of her Majesty's] Treasury, and the same shall not be exercised in the department of the Treasury, then the officer holding the same shall be assessed in that department where the office shall have been executed; Provided also, that nothing herein contained shall be construed to limit the right hereinbefore given to Commissioners of the district of assessing offices before described within their respective jurisdictions, although such offices, or any of them, may not be held under their appointment, or the profits of such offices may not be payable by them or their order.

Duties not to extend to offices necessarily executed in Ireland.

148. [[2]Provided always, and be it enacted, that nothing herein contained shall extend or be construed to extend to charge any person resident in Ireland with the duties contained in the said Schedule (E.) in respect of any public office or employment the duties whereof are necessarily and permanently performed in Ireland.

Certain allowances to trustees of British Museum, and the like exemptions as now allowed to charitable institutions.

149. Provided always, [[3]and be it enacted,] that the like allowances shall be granted to the trustees of the British Museum in respect of any charge under Schedule (A.) to be made on the lands and tenements vested in such trustees, as are granted to colleges and other properties mentioned in No. VI. of that Schedule; and the like exemptions shall be allowed in respect of any dividends of stock vested in such trustees, or any of them, or in any other for their use, as are granted to charitable institutions by this Act; and no salary or payment made or to be made out of her Majesty's Exchequer to such trustees for the use of such institutions shall be charged at the said exchequer, provided all salaries of officers or persons employed under the said trustees shall be charged on the said officers respectively.

Commissioners on offices to take the oaths prescribed, and to have power to appoint clerks, assessors, and collectors from the officers in their departments.

150. [[3]And be it enacted, that] the several Commissioners authorised to act in the execution of this Act in relation to the duties on offices or employments of profit, and on pensions or stipends, as soon after their appointment respectively as conveniently can be done in their respective departments, shall meet in some convenient place, in order to qualify themselves by taking the oaths prescribed by the [[4]said recited Acts relating to the duties of assessed taxes,] and shall have power to elect a clerk and assessors, and in cases where the duties cannot be stopped and detained at the department of office of the said Commissioners, or for which the said respective Commissioners shall act, collectors of the said duties to be assessed by them from and amongst the officers in their respective

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[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1890 (53-4 V. c. 51).

[2] Section 148 is repealed by Statute Law Revision (No. 2) Act, 1874 (37-8 V. c. 96).

[3] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

[4] These Acts are replaced by the Taxes Management Act, 1880 (43-4 V. c. 19). See sect. 7 of that Act.

departments, and separate assessors and collectors in each such department, under the cognizance of the same Commissioners, which assessors shall, within a time to be fixed by the respective Commissioners, deliver to them their certificates of assessment, in writing under their hands, to be verified upon their oaths, of the full and just annual value of all offices and employments of profit chargeable under this Act in the department for which they shall be appointed assessors, and of all pensions and stipends, estimated according to this Act, with the names and surnames of the several officers and persons entitled to pensions or stipends, and the several sums of money they ought to pay by virtue of this Act, at the rate of sevenpence for every twenty shillings of such value, without abatement or deduction, and without concealment or favour, upon pain of forfeiture for every neglect in the premises of any sum not exceeding one hundred pounds nor less than twenty pounds, which said assessors are hereby strictly enjoined and required, with all care and diligence, to charge and assess themselves, and all other officers, clerks, and persons employed in their respective departments of office, and with respect to the duty on pensions or stipends to charge and assess all persons entitled unto any such pensions or stipends, and respectively to make their assessments according to the provisions of this Act; and every such assessor shall have free access to all documents and papers whatever in their respective offices touching the salaries, fees, wages, perquisites, and profits of any officer, clerk, or person aforesaid, belonging to their respective offices, and touching the amount of the respective pensions or stipends, and shall be at liberty, whenever the same may be necessary, to require returns from the parties themselves, according to the provisions of this Act, that they may be enabled to make a true assessment in pursuance thereof.

All such assessors to have access to documents, and may require returns.

151. Provided always, [[1]and be it enacted,] that no person shall, in respect of the profits arising from offices or from pensions or stipends, chargeable before the respective Commissioners appointed for those purposes in their respective departments of office as aforesaid, be liable to the penalty herein contained for not returning a statement of the profits, arising from such office, pension, or stipend, in pursuance of any general notice hereinbefore directed, nor in any case except where the assessor for those profits respectively shall have required a return thereof in pursuance of the next preceding clause.

Statements of profits arising from offices not required under a general notice.

152. [[1]And be it enacted, that] in every case where any person holding such offices or employments, or being entitled unto any pension or stipend as aforesaid, shall claim to be exempt from such assessment, the Commissioners shall nevertheless set down in such assessment the names of such persons, and the full and just annual value of such offices, employments, pensions, or stipends; and the claim to such exemption shall be preferred and examined; and the merits thereof shall be heard and determined, under the regulations of this Act with respect to other assessments.

The full value of offices to be stated, although exemptions are claimed.

153. [[1]And be it enacted that] where any office or employment of profit chargeable by this Act is or shall be executed by deputy, such deputy shall, in all cases where he shall be in the receipt of the profits thereof, be answerable for and shall pay such assessment as shall be charged thereon, and

Deputies to pay for principals where they are in the receipt of the profits.

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[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

Officers receiving salaries or fees to be answerable for duties.

deduct the same out of the profits of such office or employment; and where the salaries, fees, wages, emoluments, or profits of any officer or officers in any such office shall be receivable by any one or more of the said officers for the use of such officer, or as a fund to be divided amongst such officers in certain proportions, the officer or officers receiving such salaries, fees, wages, perquisites, or profits shall be answerable for the duties charged thereon, and shall pay the same and deduct the same out of the funds provided for such respective offices or employments, before any division or apportionment thereof, and in case of refusal or non-payment thereof shall be liable to such distress as by this Act is prescribed against any person having the office or employment, and to all other remedies and penalties respectively herein contained.

Assessors to be furnished with accounts of salaries, &c. in public departments; and may require returns of salaries and profits of offices.

154. [[1]And be it enacted, that] the proper officers, or their respective deputies, and the receivers and paymasters in every public department of office, and in every other office for which Commissioners are hereby intended to be appointed for raising the duties hereby charged on such offices respectively, and any agent by whom any salaries, fees, wages, perquisites, or profits shall be payable, shall, upon request to him made by the assessors of the said duties, deliver *gratis* true lists or accounts of all such salaries, fees, wages, perquisites, and profits received by him, and belonging to such officers respectively, and of all pensions and stipends payable to them respectively, for the better guidance of the said assessors in charging the same, and if the said assessors shall be dissatisfied with such accounts, it shall be lawful for them to require any officer whose office shall not be truly valued in such account to prepare and produce to them, within the like period of time as is limited for the returns of other accounts by this Act, a list or account of the salaries, fees, wages, perquisites, and profits of the office exercised by him, which returns such officer shall be obliged to make under the penalties and forfeitures contained in this Act for not making other returns hereby required; and from the documents and papers in their respective offices the said assessors shall make their assessment upon the persons holding such offices, or entitled unto such pensions respectively, according to the annual value thereof, and shall in like manner as is before directed with respect to assessors for any parish or place bring in their said assessments to the respective Commissioners for their allowance, who shall forthwith set their hands to the same, which assessments shall be in force for one year, commencing and payable at the like periods as the assessments in parishes are made payable; and the said respective Commissioners for the duties on offices shall, in all cases where collectors are authorized to be appointed, cause the like duplicates to be made thereof, and delivered to collectors, with like warrants to collect the said duties, as are before directed to be given to collectors for any parish or place; and the said collectors of the said duties on offices shall have the like authority to demand and levy the said duties as is herein given to collectors of any parish or place: Provided always, that in all cases where the duties, and any salaries, fees, wages, perquisites, or profits of any public office shall be detained and stopped out of the same, or out of any moneys which shall be paid thereupon, the respective Commissioners shall cause the like duplicates to be delivered to the proper officers in the respective offices, who shall keep true accounts of all moneys stopped and detained under the

To make up their assessments from the documents in their offices, and deliver them to the Commissioners.

[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 Vict. c. 57).

authority of this Act, and shall be answerable for the same; and the money so detained of the duty on annuities, pensions, or stipends shall be accounted for and paid in the manner herein-after directed.

Duties on offices which cannot be stopped to be certified in case of nonpayment to the Commissioners of the district where the parties reside, who shall issue their warrants for levying the same.

155. [[1]And be it enacted, that] where any person having, using, or exercising any office or employment of profit which shall be charged to the duties by this Act granted thereon, and the said duties cannot be detained and stopped in the hands of the proper officer, or in the hands of any agent employed to pay the moneys due in respect of the said office or employment, or the same moneys shall have been paid over to the person having, using or exercising the said office or employment, and such person shall refuse or neglect to pay the sum of money charged upon him, the Commissioners for raising the duties on the said offices shall and may, by writing under their hands and seals, certify such neglect or refusal, and the sum payable by virtue of this Act, to the Commissioners for executing this Act in relation to lands, tenements, and hereditaments, in the parish or place where such officer shall reside; and such last-mentioned Commissioners are hereby authorized and required, upon receipt of such certificate, by warrant under their hands and seals, to authorize and empower the respective collectors of the said duties or the collectors of the parish or place where such officer shall reside, to levy the same, by such ways and means as they are authorized to levy the duties charged by them respectively in pursuance of this Act; and such collectors are hereby required to execute such warrant accordingly, and which shall be executed under the like powers and in like manner as is hereinafter directed, and as if such officer were charged to the said duties in such parish or place; and the moneys arising thereby shall be paid to the collectors charged to the said duties on such office or employment.

No qualification to be required of Commissioners on offices and public annuities.

156. Provided always, [[1]and be it enacted,] that no qualification shall be required of any of the officers or persons herein described to be Commissioners for the duties on offices, or on employments of profit, or on pensions, stipends, annuities, interests, or dividends, contained in the said several schedules, who shall act as such Commissioners by virtue of their several offices, other than such offices respectively, anything herein contained to the contrary notwithstanding.

Officers acting in raising the duties on offices liable to penalties for default.

157. [[1]And be it enacted, that] the respective assessors and collectors appointed to raise and assess, or levy, collect, and pay, the sums of money to be charged on offices or employments of profit, or on annuities, pensions, or stipends payable by her Majesty by virtue of this Act, and also the inspectors and surveyors acting in relation to the said duties, shall respectively be subject to the penalties and forfeitures for refusing or neglecting the performance of their duty, or for being guilty of any fraud or abuse in executing the same, as are inflicted on such officers respectively for the like offences by the [[2]said Acts relating to the duties of assessed taxes].

When duties are to be detained.

158. Provided always [[1]and be it enacted,] that such of the said duties granted by this Act which may be detained or stopped and deducted out of the sums in respect whereof they shall be charged or deducted shall be respectively detained at such times in each year as the said sums shall be payable to the person entitled thereto.

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[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

[2] These Acts are replaced by the Taxes Management Act, 1880 (43-4 V. c. 19). See sect. 7 of that Act.

What deductions shall not be allowed in computing the duties to be charged under this Act.

159. [[1]And be it enacted, that] in the computation of duty to be made under this Act in any of the cases before mentioned, either by the party making or delivering any list or statement required as aforesaid, or by the respective assessors or Commissioners, it shall not be lawful to make any other deductions therefrom than such as are expressly enumerated in this Act, nor to make any deduction on account of any annual interest, annuity, or other annual payment to be paid to any person out of any profits or gains chargeable by this Act, in regard that a proportionate part of the duty so to be charged is allowed to be deducted on making such payments, nor to make any deduction from the profits or gains arising from any property herein described, or from any office or employment of profit, on account of diminution of capital employed or of loss sustained in any trade, manufacture, adventure, or concern, or in any profession, employment, or vocation.

Commissioners to settle differences respecting deductions to be made on account of duties.

160. [[1]And be it enacted, that] if any difference shall arise between tenant and landlord, or any other persons to whom any interest, rent, rent-charge, annuity, fee-farm rent, rent service, quitrent, feu duty, or other rent or annual payment shall be payable, touching the sums to be deducted thereout on account of the duties hereby charged having been paid, or between the occupier for the time being and any former occupier of any lands, tenements, hereditaments, or heritages, his executors, administrators, or assigns, touching the proportion of duty to be paid or allowed by either party, the respective Commissioners for General Purposes in their several districts shall have authority, and they are hereby required to settle the proportions of such payments and deductions as shall be according to the directions of this Act, and in default of payment to levy the same respectively under the like powers as they might have levied the same if the assessment had been made in the same proportions, and to pay over the same to the collector or party, as the case may require; and the judgment and determination of such Commissioners shall be final.

Inspectors and surveyors to have access to returns and assessments, with liberty to amend them and make surcharges.

161. [[1]And be it enacted, that] the several inspectors and surveyors appointed or to be appointed shall be and they are hereby empowered respectively to inspect and examine all and every the returns made by any person under the directions of this Act; and in case any of them shall be dissatisfied either with the returns so made, or the estimate of the assessor thereon, or shall discover any error or omission in such estimate, or that any deduction hath been allowed not authorized by this Act, they shall charge the same, according to the best of their judgment, in the full amount at which the same ought to be charged; and the said inspectors and surveyors shall also be at liberty respectively to inspect and examine all and every the assessments of the said duties, or any of them, made under the authority of the respective Commissioners before mentioned, as well before as after the Commissioners shall have signed and allowed the said assessments, and before such allowance to correct and amend such assessments, if they shall respectively think fit; and every person in whose custody such returns are is hereby required, upon the request of any such inspector or surveyor as aforesaid, to deliver the same into his custody for the purposes of this Act, taking his receipt for the same, and every person in whose custody any such assessments shall be is also hereby required, upon the

[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

request of such inspector or surveyor as aforesaid, to produce the same, and such inspector or surveyor is hereby authorized to take charge of the same until he shall have taken such copies of or extracts from the same as may be necessary for his better information; and every person wilfully obstructing such inspector or surveyor in the due performance of his duty as aforesaid shall forfeit the sum of fifty pounds; and if any such inspector or surveyor shall find or discover, upon his survey or examination, or otherwise, that any person, corporation, company, or society who ought to be charged with the said duties or any of them, shall have been omitted to be charged therewith, or shall have been underrated in the assessment, or that any person, or the officer of any corporation, company, or society, liable to the said duties or any of them, being required so to do, hath neglected or refused to make a return according to the directions of this Act, or that the assessors have neglected to require a return in any case where a return ought to have been required from any person, corporation, company, or society according to the intent of this Act, so that such person, corporation, company, or society shall not have been fully charged to the said duties, then and in every such case the said surveyor or inspector shall certify the same in writing under his hand, together with an account of every default, and the full amount of the duty which ought to be paid by way of surcharge, to the said respective Commissioners for putting in execution this Act in relation to the duties on which such surcharge shall be made, in the manner and under and subject to the rules and regulations prescribed and contained in the [[1]said two several recited Acts of the forty-eighth and fiftieth years of the reign of King George the Third, hereinbefore recited or referred to].

Surcharges, if confirmed, to be in treble duty in certain cases.

162. [[2]And be it enacted, that] upon every surcharge allowed upon appeal by the said Commissioners, upon the certificate of the inspector or surveyor, as directed by this Act, in cases where no such declaration shall have been delivered as in the said [[1]recited Act of the fiftieth year of the reign of King George the Third] is required, or the Commissioners shall be dissatisfied with the same, the assessment shall be made in treble the rate of duty prescribed in the said respective schedules of this Act on the amount of the duty surcharged: Provided always, that if upon appeal such declaration as aforesaid shall have been delivered, and if the said Commissioners shall be satisfied therewith, and shall be of opinion that there was any reasonable cause of controversy on the part of the appellant on the subject-matter of appeal, and that the party hath not been guilty of any wilful default, neglect, or omission, nor wilfully done any act with intention to defraud the revenue, it shall be lawful for the said Commissioners who shall have determined the said appeal, although they shall confirm or allow the surcharge, or a part thereof only, at the same time to remit and strike off the whole or any part of the said treble duty; and the overplus of the sum so charged above the said rate or duty, and which shall not be so remitted or struck off as aforesaid, shall be paid to the officer for receipt, to the use of her Majesty; which increase of duty, made by occasion of such surcharge, together with the overplus aforesaid above the said rate of duty, and all other increase of duty occasioned by the surcharge or information of any inspector or surveyor

Upon appeal, the whole or a part of the treble duty may be remitted.

Payment of overplus.

Increase of duty, &c. by surcharge to be certified

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[1] For these Acts the Taxes Management Act, 1880 (43-4 V. c. 19), is now substituted. See sect. 7 of that Act.

[2] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

to Commissioners of Stamps and Taxes, who shall have authority to reward inspector or surveyor.

under this Act, the Commissioners for executing this Act who shall have confirmed such surcharge or made such increase shall at the same meeting certify under their hands to the Commissioners of [1Stamps and Taxes] who shall have authority, under and subject to such rules and regulations as shall have been made by the [2Commissioners of her Majesty's] Treasury in that behalf, to direct the said officer for receipt to pay to the said inspector or surveyor, out of the increased duty and overplus aforesaid, such sum of money as shall appear to the said Commissioners of [1Stamps and Taxes] to be an adequate reward for the labour and diligence of the said inspector or surveyor.

Exemption of persons whose income is less than 150*l.* per annum.

163. Provided always, [3and be it enacted,] that any person charged or chargeable to the duties granted by this Act, either by assessment, or by way of deduction from any rent, annuity, interest, or other annual payment to which he may be entitled, who shall prove before the Commissioners for General Purposes, in the manner hereinafter mentioned, that the aggregate annual amount of his income, estimated according to the several rules and directions of this Act, is less than one hundred and fifty pounds, shall be exempted from the said duties, and shall be entitled to be repaid the amount of all deductions or payments on account thereof in the manner hereinafter directed, except so much of such duties as the person claiming such exemption shall or may be entitled to charge against any other person, or to deduct or retain from or out of any payment to which such claimant may be or become liable; and such exemption shall be claimed and proved, and the proceedings thereupon shall be had, before the Commissioners for General Purposes in the district where the claimant shall reside, pursuant to and under the powers and provisions by which the duties in Schedule (D.) are herein directed to be ascertained and charged, but nevertheless subject to the rules and directions hereinafter contained.

Mode of claiming exemption and of proceeding on such claim.

164. [3And be it enacted, that] every person claiming to be entitled to such exemption as last aforesaid, shall, within the time to be limited as herein-before directed for delivering in the lists, declarations, and statements required by this Act (or within such further time as the said Commissioners shall for special cause assigned allow), deliver or cause to be delivered to the assessor of the parish or place where such claimant shall reside a notice of his claim for such exemption, together with a declaration and statement, signed by such claimant, and in such form as may be provided under the authority of this Act, declaring and setting forth therein all the particular sources from whence the income of such claimant shall arise, and the particular amount arising from each source, and also every sum of annual interest or other annual payment reserved or charged thereon, whereby the income shall or may be diminished, and also every sum which such claimant may have charged or may be entitled to charge against any other person for or on account of the duty made payable by this Act, or which he may have deducted or retained, or may be entitled to deduct or retain, under the authority of this Act, from or out of any payment to which he may be or become liable; which declaration and statement every inspector or surveyor

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[1] Now Inland Revenue, see the Income Tax Act, 1853 (16-7 V. c. 34), s. 9.
[2] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1890 (53-4 V. c. 51).
[3] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

shall be at liberty to peruse and examine, and to take copies of or extracts from, under the like powers as in other cases; and in every case where such claim for exemption shall be made in manner aforesaid the assessor shall transmit such notice, declaration, and statement to the said Commissioners; and if the inspector or surveyor shall not object to such declaration within forty days after such transmission, or within such further time as the Commissioners, on just cause, shall allow to him to make such objection, it shall be lawful for the said Commissioners to allow such claim of exemption, and to discharge the assessment made upon any property or profits of such person, either in his own name or in the name of his lessee or tenant, within the district of the said Commissioners; and if it shall appear that any property or profits of such person is or are assessed or liable to be assessed in any other district, the said Commissioners shall certify to the Commissioners of [[1]Stamps and Taxes], in such form as shall be provided under the authority of this Act, the allowance of such exemption; and the said last-mentioned Commissioners shall direct the assessment made upon any property or profits of such claimant, either in his own name or in the name of his lessee or tenant, in any other district, to be discharged, and the same shall be discharged accordingly: Provided always, that in case the inspector or surveyor shall object to any such claim as aforesaid in writing, suggesting to the said additional Commissioners that he hath reason to believe that the income of such claimant, or any other particular required by this Act to be declared or set forth in such declaration and statement as aforesaid, is not truly or fully declared or set forth therein in any specified particular, then and in such case the merits of such claim for exemption shall be heard and determined upon appeal before the Commissioners for General Purposes, under and subject to such rules, regulations, and penalties as other appeals under this Act are directed to be heard and determined, and if such claim shall be allowed on appeal as aforesaid the said Commissioners for General Purposes shall grant and issue all necessary certificates consequent thereon.

If inspector or surveyor object to the claim the same to be determined by the Commissioners for General Purposes.

165. Provided always, [[2]and be it enacted,] that if it shall be proved to the satisfaction of the Commissioners for General Purposes that any person whose claim for exemption has been allowed in manner aforesaid has been charged to and has paid any of the duties hereby granted, by way of deduction from any rent, annuity, interest, or other annual payment to which he may be entitled, and from which a deduction is authorized to be made by this Act, or that such person has been assessed and has paid such duties in respect of any annuity, dividend, pension, or stipend payable to him out of the public revenue of the United Kingdom, then and in such case it shall be lawful for the said Commissioners for General Purposes to satisfy what shall have been so proved before them to the Commissioners for Special Purposes at the Head[3] Office for Stamps and Taxes in England, by a certificate, in such form as shall be provided under the authority of this Act, specifying and describing the amount and the particular nature of the payment out of which and the name and place of abode of the person by whom such deduction as aforesaid shall have been made, and specifying also the

On proof that persons entitled to exemption have been charged duties by deduction from any annuity, dividend, rent, &c., Commissioners to grant a certificate thereof, which shall authorize the collector or receiver to repay the

[1] Now Inland Revenue, see the Income Tax Act, 1853 (16-7 V. c. 34), s. 9.
[2] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).
[3] Now the Chief Office of Inland Revenue.

amount of such duties.

amount and description of the annuity, dividend, pension, or stipend in respect of which such claimant has been assessed, and the duties whereon he has paid; and thereupon the said last-mentioned Commissioners shall issue to such claimant an order for the repayment to him of the amount of the duties certified to have been paid as aforesaid, and such order shall be directed to the Receiver General of [1Stamps and Taxes,] or to an officer for receipt or collector of the duties granted by this Act, or to a Distributor or sub-distributor of stamps, and shall authorize and require the repayment of the said duties in like manner as is hereinbefore provided with respect to the allowances to be granted under No. V. of Schedule (A.) of this Act.

Penalty for making fraudulent claims of exemption.

166. [2And be it enacted, that] if any person shall be guilty of any fraud or contrivance in making any such claim, or in obtaining any such exemption or any such certificate as aforesaid, or shall fraudulently conceal or untruly declare any income or amount of income, or any sum which he may have charged or been entitled under the authority of this Act to charge against any other person, or which he may have deducted or retained, or have been or be entitled as aforesaid to deduct or retain, from or out of any payment to which such person claiming exemption as aforesaid may be or become liable, or if any such person shall fraudulently make a second claim for the same cause, every such person so offending in any of the cases aforesaid shall forfeit the sum of twenty pounds, and treble the duty chargeable in respect of all the sources of his income, and as if such claim had not been allowed; and if any person shall knowingly and wilfully aid, abet, or assist any such person in committing any such fraud as aforesaid, the person so aiding, abetting, or assisting shall forfeit the sum of fifty pounds.

Income arising from lands, how to be estimated with reference to claims for exemption.

167. [2And be it enacted, that] the annual value of lands, tenements, hereditaments, or heritages belonging to or in the occupation of any person claiming the said exemption shall be estimated, for the purpose of ascertaining his title to such exemption, according to the rules and directions contained in the said several Schedules (A.) and (B.) respectively; [3and that the income arising from the occupation by such claimant of lands, tenements, hereditaments, or heritages chargeable under the said Schedule (B.) shall be deemed for the purpose aforesaid to be equal in England to one-half and in Scotland to one-third of the full annual value thereof, estimated according to the said rules and directions; and] where such claimant shall be the proprietor as well as the occupier of any such lands, tenements, hereditaments, or heritages, the amount deemed [3by this Act as aforesaid] to be the income arising from the occupation of such lands, tenements, hereditaments, or heritages shall be added to the amount of the full annual value thereof, and the aggregate amount shall be deemed for the purpose aforesaid to be the income of such claimant arising from the lands, tenements, hereditaments, or heritages, of which he shall be the proprietor and occupier as aforesaid; [3and the income arising from any lease of or composition for tithes shall be deemed, for the purpose aforesaid, to be equal to one fourth of the full annual value of such tithes, estimated in manner aforesaid.]

Joint tenants,

168. [2And be it enacted, that] coparceners, joint tenants, or tenants in

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[1] Now Inland Revenue, see Income Tax Act, 1853 (16-7 V. c. 34), s. 9.

[2] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

[3] The part in brackets is repealed by the Finance Act, 1896 (59-60 V. c. 28).

common of the profits of any property whatever, and any joint tenants or tenants of lands or tenements in partnership, being in the actual and joint occupation thereof in partnership, and entitled to the profits thereof in shares, and personally labouring therein, or managing the same, and any partners carrying on trade or exercising any profession together, and entitled to the profits thereof in shares, and personally acting therein, may severally claim such exemption according to their respective shares and interests in the manner before directed; and such claims, being duly proved to the satisfaction of the Commissioners to whom the same are made, may be proceeded upon as in the cases of several interests: Provided always, that the profits so arising shall not in any case be charged separately to the duty in respect of the occupation of lands where lands shall be let or underlet, without relinquishing the possession by the lessor, or where the lessee or tenant shall not be exclusively in the possession and occupation of the lands so let.

&c. may severally claim abatements.

Exceptions.

169. Provided always, [[1]and be it enacted,] that every such claim for exemption shall be made to the Commissioners of the district where the claimant shall reside, whether such claimant shall be personally charged in such district or not, except where the whole income of the claimant shall arise from an office or employment of profit the duties whereon are cognizable before the Commissioners of a department of office, or from a pension or stipend, in all which cases the claim may be made to and allowed by the Commissioners of such department wherein the said duties are cognizable under the regulations of this Act; and if such claimant shall be out of Great Britain,[2] an affidavit, stating the several matters required by this Act, taken before any person having authority to administer an oath in the place where such claimant shall reside in any matter relating to any part of the public revenue of Great Britain,[2] may be received by the respective Commissioners for executing this Act in relation to the assessment on which such claim shall be founded.

Claim to be made where the claimant resides, or in the case of offices, pensions, and stipends, before the Commissioners of the department.

Persons out of Great Britain may claim by affidavit.

170. [[1]And be it enacted, that] any such claim for exemption may be made by any guardian, trustee, attorney, agent, or factor, on account of others, in any case where satisfactory proof shall be made that the party claiming such exemption is unable to attend in person, or such claim may be made by the several persons acting in any of the characters herein-before described, in such manner as they may act for others, for the purpose of being assessed on their account in the first instance, as herein-before directed.

Claims may be made by agents or trustees on account of others.

171. [[1]And be it enacted, that] whenever any person shall have been assesssed to any of the duties granted by this Act, whether charged on him on his own account, or in any of the characters hereinbefore described on the behalf of any other person, and shall by any error or mistake be again assessed for the same cause, and on the same account, and for the same year, it shall be lawful for him to apply to the Commissioners for General Purposes acting for the division or place for which he shall have been so assessed by error or mistake as aforesaid, for the purpose of being relieved from such double assessment, and the said Commissioners, on due proof thereof to their satisfaction, shall cause such assessment, or such part thereof as shall be a double charge as aforesaid, to be vacated, and which proof may be

Commissioners to grant relief from double assessments.

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[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

[2] Now the United Kingdom, see the Income Tax Act, 1853 (16-7 V. c. 34).

either by a certificate of the assessment made on the party, under the hands of the Commissioners by whom he shall have been rightly assessed according to the directions of this Act for the matter or cause in question, certifying that such matter or cause is included in an assessment made by them on the same party, on the same account, and for the same year, or by other lawful evidence given of those facts on the oath of any credible witness; and whenever it shall be proved to the satisfaction of the Commissioners of [[1]Stamps and Taxes] that any such double assessment as aforesaid hath been made, and hath not been vacated, and that payment hath been made of both assessments, it shall be lawful for the said Commissioners of [[1]Stamps and Taxes] to order and direct the Receiver General of [[1]Stamps and Taxes,] or any officer for receipt, to repay to the party the sum so erroneously and doubly assessed upon him, and paid as aforesaid.

Commissioners to issue duplicates of assessments to collectors with warrants to collect the same.

172. [[2]And be it enacted, that] the respective Commissioners executing this Act in relation to any of the duties hereby granted shall, within one calendar month after the first day of hearing appeals, all appeals then made being first determined, issue out and deliver to the respective collectors duplicates of the assessments of the aforesaid duties charged at the respective rates mentioned in the respective Schedules of this Act, together with their warrants, as directed by the said [[3]several Acts relating to the duties of assessed taxes] for the speedy and effectual levying and collecting of the said duties assessed under this Act, as the same shall become payable [[4]by quarterly instalments, as herein directed,] distinguishing the amount charged under each of the said schedules: Provided always, that all such duties as shall be assessed or charged under any of the provisions of this Act, if not paid, levied, or collected according to the directions herein mentioned, shall be recoverable as a debt to the Queen's Majesty, with full costs of suit, and all charges and expenses attending the same: and when so recovered the said duties shall be paid to the proper officer for receipt, in aid of the parish or place answerable for the same.

Parents and guardians liable for infants, and executors for persons dying.

173. [[2]And be it enacted, that] where any person chargeable with the duties hereby made payable as aforesaid shall be under the age of twenty-one years, or where any person so chargeable shall die, in every such case the parents, guardians, or tutors of such infant, upon default of payment by him, and the executors and administrators of the persons so dying, shall be and are hereby made liable to and charged with the payments which the said infant ought to have made, or the person so dying was chargeable with; and if such parents, guardians, or tutors, or such executors or administrators, shall neglect or refuse to pay as aforesaid, it shall be lawful to proceed against them in like manner as against any other person making default of payment of the said duties; and all parents, guardians, or tutors making payment as aforesaid shall be allowed every sum paid for such infants in their accounts, and all executors and administrators shall be allowed to deduct all such payments out of the assets of the person so dying.

Parish to be

174. [[2]And be it enacted, that] in England the parish or place in which

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[1] Now Inland Revenue, see the Income Tax Act, 1853 (16-7 V. c. 34), s. 9.

[2] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

[3] For these Acts the Taxes Management Act, 1880 (43-4 V. c. 19), is now substituted. See sect. 7 of that Act.

[4] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1874 (37-8 V. c. 96).

any assessment shall have been made of the duties granted by this Act under any of the schedules marked respectively (A.), (B.), or (D.) shall be answerable for the amount of the duties which shall have been so charged in such parish or place, and for the said duties being duly demanded of the respective persons charged therewith, according to the regulations contained in the [1said Acts relating to the duties of assessed taxes,] by the collector appointed for such parish or place, and also for such collector duly paying the sums by him received to the proper officer for receipt of the said duties according to such regulations; and any of the arrears of the said duties by this Act granted, caused by or arising from any neglect, default, or failure of any collector for which any parish or place shall be answerable as aforesaid, shall be assessed within or upon such parish or place as soon after such default shall be discovered as conveniently can be done, and shall be charged on the amount of the assessment which shall be made for the same duties in the year commencing from the 5th day of April preceding the time of making such re-assessment, by duly apportioning the amount of such arrear amongst the several persons assessed in that year in the assessment of the same duties on which such arrear shall have accrued, according to the amount of each person's assessment therein, as nearly as the case will admit, and by the like rules, methods, and directions by which the original assessment was made, to be raised and levied in such manner as any assessment may be by virtue of this Act raised and levied under the regulations of the said Acts respectively.

Collectors answerable for collectors in England.

Arrears to be re-assessed.

175. [2]And be it enacted, that if it shall happen that this Act shall not be executed previous to the time appointed for the payment of the first or any subsequent instalment of the said duties, or within the year of assessment, it shall be lawful for the Commissioners executing this Act who shall have made or allowed any assessment after the period appointed for any such payment, which they are hereby declared to be competent to do, from time to time, when and as the same shall be necessary, to settle and adjust at what time and in what proportions any instalment of which the time for payment shall then have elapsed shall be paid, in such manner as to them shall appear just and reasonable, regard being had to the number of days appointed for the payment of instalments then to come (if any) in the year of making the assessment; provided that on or before every quarterly day of payment as herein mentioned after the making of such assessment in the same or any subsequent year the said Commissioners shall direct at least the amount of two quarterly payments to be made, until all arrears, either for that or any former or subsequent year, shall have been completed.

Commissioners to adjust times of payment, if the appointed days are elapsed; and sums to be paid, not less than the amount of two instalments on each day.

176. [3And be it enacted, that] every assessment to be made under this Act within the year appointed for making the same shall be deemed to be for the current year, and shall be in force for such year; and every assessment made after the expiration of any year in which the same ought to have been made shall be deemed to be for the whole of the year current when the assessment ought to have been made, and such year shall commence [4from the 5th day of April, 1842, for the first assessment, and] for every [4subse-

Assessments to be for one year, payable by four instalments.

[1] For these Acts the Taxes Management Act, 1880 (43-4 V. c. 19), is now substituted. See sect. 7 of that Act.

[2] Sect. 175 is repealed by Statute Law Revision (No. 2) Act, 1874 (37-8 V. c. 96).

[3] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

[4] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1890 (53-4 V. c. 51).

quent] assessment during the continuance of this Act from the 5th day of April in such year; [[1]and the said duties which shall be charged in England, except where the same shall be detained and stopped at the respective offices, shall be payable in each year by four quarterly instalments at the times following; *videlicet*, on or before the 20th day of June for the first quarterly instalment, on or before the 20th day of September for the second quarterly instalment, on or before the 20th day of December for the third quarterly instalment, and on or before the 20th day of March for the last quarterly instalment, in each year; and in Scotland, the said duties shall be payable by two half-yearly instalments; *videlicet*, on or before the 20th day of September for the first half-yearly instalment, and on or before the 20th day of March for the last half-yearly instalment; the payment thereof for the first assessment to be regulated as to the proportion of the sums and times of payment by the respective Commissioners pursuant to the directions herein contained.]

If persons come to reside in any parish in which they have not been before charged the assessor to give them notice to declare where they were charged, or to deliver a statement for the purpose of being assessed.

Penalty on persons neglecting to deliver such statement.

177. [[2]And be it enacted, that] if any person shall come into any parish or place wherein such person shall not have been before charged to the said duties contained in any of the said Schedules for the same year, the assessor or collector, or any inspector or surveyor, shall give or leave notice in writing to or for such person to make out and deliver, within fourteen days next ensuing the day of giving such notice, a declaration in writing, signed by him with his own proper name, which shall specify the name of the parish or place and county wherein such person shall have been assessed as aforesaid for such year, and also to produce the certificate of such assessment, or in default thereof to deliver a statement for the purpose of being assessed in such parish or place; and if any such person as aforesaid shall neglect or refuse to make out and sign and deliver such declaration or statement as aforesaid, within the time before mentioned, or shall make any false or untrue return therein in any particular thereof, he shall forfeit a sum not exceeding twenty pounds; and when in any case it shall not appear in the assessment of any parish or place for that year that any person residing or being therein shall have been assessed to the said duties in the same parish or place, then and in such case it shall be lawful for the respective Commissioners acting for the said district and they are hereby required to proceed in manner before directed to assess such person to the said several duties, in like manner in every respect as if such person had been resident in such parish or place at the time of the publication of notices as directed by this Act, unless such person shall prove to their satisfaction that he hath been duly charged in some other parish or place, and hath paid or satisfied the duties so charged; and if any person, before or after notice given to return a statement as aforesaid, shall remove out of such parish or place without returning such statement, or before an assessment shall be made on him, with intent to evade an assessment, or if any person being assessed to the said duties shall remove out of the parish or place where he shall have been assessed to the said duties without first paying or discharging all the said duties charged upon him which shall then be due and payable, or without leaving in such parish or place sufficient goods and chattels whereon the said duties

Persons removing out of a parish or place, without first discharging the assessment, or not leaving sufficient goods to satisfy the

[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1874 (37-8 V. c. 96).

[2] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

in arrear may be raised and levied, and the same shall remain in arrear and unpaid for the space of twenty days after the time appointed by this Act for payment thereof, every such person shall forfeit (over and above the said duties so left unpaid as aforesaid) the sum of twenty pounds; and in every such case, and also in every case where any person shall reside in any other parish or place than that in which the assessment or charge shall be made on him in pursuance of this Act, and the same shall be in arrear and unsatisfied in the whole or in part, it shall be lawful for the Commissioners of the district in which such assessment or charge shall have been made to certify to the Commissioners of the district within which such person shall reside the amount of the assessment or charge made upon such person, and remaining in arrear and unpaid as aforesaid, and such last-mentioned Commissioners shall thereupon cause the whole of the duty so remaining in arrear and unpaid as aforesaid to be raised and levied, by and under their warrant, together with the costs and charges attending the same; provided that if no such certificate and warrant as aforesaid shall be made and issued, or the whole of such arrear of duty, and costs and charges, as aforesaid, shall not be levied or collected in manner aforesaid, the same shall be recoverable as a debt to her Majesty, together with full costs of suit, and all charges and expenses attending the same.

Arrear, subject to penalty.

Arrears to be levied by distress in the district where the party resides; and if not so levied or collected, to be recovered as a debt to her Majesty.

178. [[1]And be it enacted, that] if any person who ought to be charged as directed by this Act shall, by fraudulently changing or having changed his place of residence, or by fraudulently converting or having converted his property, or any part thereof, or by fraudulently releasing, assigning, or conveying, or having fraudulently released, assigned, or conveyed, the same, or any part thereof, or by making and delivering any such statement or schedule as aforesaid which shall be false or fraudulent, or, having any property chargeable as aforesaid, shall fraudulently convert or shall have fraudulently converted the same, or any part thereof, by altering or having altered any security with relation to such property, or by fraudulently rendering or having rendered the same, or any part thereof, temporarily unproductive, in order that such person may not be charged for the same or any part thereof, or by any falsehood, wilful neglect, fraud, covin, art, or contrivance whatsoever, used or practised, shall not be charged and assessed according to the true intent and meaning of this Act, every such person shall, on proof thereof before the said respective Commissioners for General Purposes acting for the district wherein such persons shall be chargeable, be charged and assessed treble the amount of the charge which ought to have been made on such person if no such charge shall have been made; and if any such charge shall have been made which shall be less than the charge which ought to have been made on such person, then such person shall be assessed and charged, over and above such former charge, treble the amount of the difference between the sum with which such person shall have been charged and the sum with which he ought to have been charged, to be added to such assessment, and applied as in other cases as aforesaid.

Penalty on persons fraudulently changing their residence, or converting property, or delivering false statements, or guilty of other fraud.

179. [[1]And be it enacted, that] no receipt, certificate of payment, [[2]contract of composition], affidavit, appraisement, or valuation, made or

Receipts and other documents ex-

[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

[2] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1874 (37-8 V. c. 96).

empted from stamp duty.

given in pursuance and for the purposes of this Act, shall be liable to any stamp duty.

Persons giving false evidence, or swearing falsely, liable to the penalties of perjury.

180. [[1]And be it enacted, that] if any person, upon any examination on oath or affirmation, or in any affidavit, deposition, or affirmation authorized by this Act, shall wilfully and corruptly give false evidence, or shall wilfully and corruptly swear or affirm any matter or thing which shall be false or untrue, every such person so offending, and being thereof duly convicted, shall be subject and liable to such pains and penalties as by the laws in force persons convicted of wilful and corrupt perjury are subject and liable to; and any indictment or information for perjury committed in any such affidavit, deposition, or affirmation as aforesaid, whether the same shall be taken or made within Great Britain[2] or without shall and may be laid, tried, and determined in the county where such affidavit, deposition, or affirmation shall be exhibited to the Commissioners in pursuance of this Act.

Indictments may be tried in the county where the affidavit was exhibited.

Punishment of persons guilty of forging or altering certificates or receipts given under this Act.

181. [[1]And be it enacted, that] if any person shall forge, counterfeit, or alter, or cause or procure to be forged, counterfeited or altered, or knowingly or wilfully act or assist in forging, counterfeiting, or altering, any certificate of the Commissioners of [[3]Stamps and Taxes] or of any other Commissioners acting in the execution of this Act, or any certificate or receipt which the cashier of the Bank of England, or the Receiver-General of [[3]Stamps and Taxes], or any officer for receipt, is by this Act authorized to give on the receipt of any money payable under this Act, or shall utter any such forged, counterfeited, or altered certificate or receipt as aforesaid, with intent to defraud her Majesty, or any body politic or corporate, or any person whomsoever, every person so offending, and being thereof lawfully convicted, shall be adjudged guilty of felony, and shall be transported for a term not exceeding fourteen years.

Prescribing the evidence to be received in Court of persons being Commissioners or officers.

182. [[1]And be it enacted, that] if, upon the trial of any indictment, information, suit, or prosecution whatsoever, or in any proceeding relative thereto, under and by virtue of this Act or the said Acts hereinbefore recited or referred to, or for anything done in pursuance of this Act, or for any offence committed against this Act, or in any matter arising out of this Act, or on occasion thereof, any question shall arise whether any person be or have been or was a Commissioner or officer of or for the said duties hereby granted, or commissioned or appointed to act as such, then and in every such case proof may be made and admitted that such person was reputed to be or had acted as such Commissioner or officer, or acted under such commission or appointment, at the time respectively when the act, matter, or thing in controversy upon such trial or other proceeding shall happen to have been done or committed, or omitted to have been done or performed, without producing or proving the particular commission, appointment, nomination, or other authority whereby such Commissioner or officer was constituted and appointed; and that in every such case such proof shall be deemed and taken, by all Judges, Justices, or Commissioners before whom any such trial or proceeding shall be had, to be good and legal evidence, unless by other evidence the contrary shall be made to appear; any law or usage to the contrary thereof notwithstanding.

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[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

[2] Now the United Kingdom, see the Income Tax Act, 1853 (16-7 V. c. 34).

[3] Now Inland Revenue, see the Income Tax Act, 1853 (16-7 V. c. 34), s. 9.

Allowance to assessors, collectors, clerks and other persons.

183. [[1]And be it enacted, that] the several assessors and collectors shall have three-pence in the pound for what money of the several duties by this Act granted the several collectors shall pay to the proper officer for receipt, to be divided in each separate collection between the said assessors and collectors in equal proportion; [[2]and for the careful writing and transcribing the said assessments, warrants, estreats, and duplicates in due time, and for the due, speedy, and effectual executing all matters and things directed to be performed under the said Commissioners, and for the bearing and sustaining all incidental expenses attending the execution of this Act, under the direction of the said respective Commissioners in their several districts, the clerk of the respective Commissioners, who shall perform the duties of his office within the respective times limited by this Act, and shall have borne and sustained such incidental expenses, shall, by warrant under the hands of the said Commissioners, have and receive from the respective officers for receipt two-pence in the pound of all such moneys of the said several duties as shall be assessed in or by virtue of such warrants or certificates; and the clerk who shall not have borne and sustained such incidental expenses shall, by like warrant, have and receive one penny in the pound of all such moneys as aforesaid, provided this Act be carried into execution in due time and in an effectual manner for the district in which he shall be appointed the clerk, and all warrants or estreats be made, and the duplicates be delivered to the proper officer for receipt, and into the Head Office for Stamps and Taxes as aforesaid, within the times limited by this Act, and not otherwise]; and no person shall under any pretence whatever be entitled to any part of the reward hereby given to such clerk, except the assistant (if any) to such clerk, whose compensation shall be apportioned and settled by the respective Commissioners; nor shall such clerk, under any pretence whatever, demand, take, or receive any fee, gratuity, or perquisite, for any matter or thing to be done by him by virtue and under the authority of this Act, from any person, other than the proper officer for receipt, in manner aforesaid: Provided always, that no such compensation shall be made to any assessor or collector, in respect of any sum detained or stopped under the authority of this Act, or paid into the Bank of England, or in respect of any sums paid by the respective parties into the said bank, nor to any receiver, nor to any of the persons or corporations intrusted with the payment of annuities, dividends, and shares paid out of any public revenue of Great Britain,[3] or elsewhere, as aforesaid, other than such sum as shall be directed to be paid to such collectors, receivers, corporations, or persons aforesaid by the warrant of the [[4]Commissioners of her Majesty's] Treasury for their pains and care in executing this Act: [[2]Provided also, that it shall be lawful for the said Commissioners of her Majesty's Treasury to cause such further allowance to be made to such clerk as aforesaid, who shall have faithfully performed his duty under this Act, and shall have borne and sustained such incidental expenses as aforesaid, of any sum, not exceeding one penny in the pound on the amount of such part of the gross assessment as shall have

Further allowance to clerk.

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[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

[2] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1874 (37-8 V. c. 96).

[3] Now the United Kingdom, see the Income Tax Act, 1853 (16-7 V. c. 34).

[4] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1890 (53-4 V. c. 51).

been discharged on occasion of claims for exemption made and allowed under this Act on the ground of income, as they shall, on consideration of the extent and population of the district, and the number of such claims, think proper to direct, and the certificate of the Commissioners of Stamps and Taxes shall be an authority to the officers for receipt respectively to pay such further allowance].

Non-payment of duties not to disqualify from voting at elections for members of Parliament.

184. Provided always, [[1]and be it enacted,] that no neglect or omission to pay, within any limited period, the duties assessed under the authority of this Act in respect of any house or other building, shall prevent any person from being admitted or retained on the register or list of persons entitled to vote in the election of a member or members to serve in Parliament for any city or borough, or from voting at any such election.

Recovery of penalties and duties.

185. [[1]And be it enacted, that] all pecuniary penalties imposed by this Act shall and may be sued for, recovered, and applied in such manner and form as is directed in regard to the pecuniary penalties imposed by [[2]the said Acts respectively passed in the forty-third year of the reign of King George the Third relating to the duties of assessed taxes,] the regulations whereof are hereby made applicable to the duties granted and the penalties imposed by this Act; and that in any action, suit, or proceeding, by or on the behalf of her Majesty, for the recovery of any such duties or penalties respectively granted or imposed by this Act, such duties and penalties respectively shall be recoverable with full costs of suit, and all charges and expenses attending the same: Provided always, that wherever by this Act any increased rate of duty is imposed as a penalty, or as part of or in addition to any penalty, every such penalty and all such increased rate of duty may be added to the assessment, and be collected and levied in like manner as any duties included in such assessment may be collected and levied.

Moneys arising from the duties to be paid into the Bank of England, and transferred to the credit of the Exchequer.

186. [[3]And be it enacted, that all moneys arising from the duties hereby granted (the necessary charges of raising and accounting for the same accepted) shall be paid into the Bank of England to the credit of an account, in the name of the Receiver-General of Stamps and Taxes, to be opened and kept for that purpose, distinct and apart from all other moneys, and shall be transferred to the credit of her Majesty's Exchequer, in such manner, at such times, and under such authority, rules, and regulations, as are or may be appointed or made with regard to any other moneys arising from duties under the care or management of the Commissioners of Stamps and Taxes]: Provided always, that [[3]out of the moneys from time to time to arise from the said duties] it shall be lawful for the [[4]Commissioners of her Majesty's] Treasury to settle and appoint such salaries and allowances for the service, pains, and labour of the Commissioners for Special Purposes, inspectors, surveyors, and other officers to be employed in the execution of this Act, and otherwise in relation thereto, and also to discharge such incident charges and expenses attending the execution of this Act, as the [[4]said Commissioners of her Majesty's] Treasury shall think fit and reasonable in that behalf.

Treasury to settle allowances for Commissioners, surveyors, and other officers, and to discharge incidental expenses.

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[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

[2] For these Acts the Taxes Management Act, 1880 (43-4 V. c. 19), is now substituted (see sect. 7 of that Act).

[3] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1874 (37-8 V. c. 96).

[4] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1890 (53-4 V. c. 51).

No person to be exempt by letters patent.

187. [[1]And be it enacted, that] no letters patent granted by her Majesty or any of her royal progenitors, or to be granted by her Majesty, to any person, city, borough, or town corporate within this realm, of any manner of liberties, privileges, or exemptions from subsidies, tolls, taxes, assessments, or aids, nor any statute granting any salary, annuity, or pension to any person free of any taxes, deductions, or assessments, shall be construed or taken to exempt any person, city, borough, or town corporate, or any of the inhabitants of the same, from the burden and charges of any of the duties granted by this Act; and all *non obstantes* in such statutes or letters patent made or to be made in bar of this Act are hereby declared to be void and of none effect; any such statutes, letters patent, grants, or charters, or any clause of *non obstante*, or other matter or thing therein contained, or any law or statute to the contrary notwithstanding.

Provisions applied to any particular schedule may extend to another schedule in charging the duty.

188. [[1]And be it enacted, that] every provision in this Act contained, and applied to the duties in any particular schedule, which shall also be applicable to the duties in any other schedule, and not repugnant to the provisions for charging, ascertaining, or levying the duties in such other schedule, shall, in charging, ascertaining, and levying the same, be applied as fully and effectually as if the application thereof had been so expressly and particularly directed; anything herein contained to the contrary notwithstanding.

Schedule (F.) to be deemed part of this Act.

189. [[1]And be it enacted, that] the schedule herein-after mentioned, marked (F.) shall be deemed a part of this Act, as if the same had been inserted under a special enactment; provided that the several oaths therein mentioned shall be deemed and understood and taken to refer only to the duties contained in Schedule (D.) as aforesaid.

SCHEDULE (F.).

Form of Oath or Affirmation to be taken by the Commissioners for the Purposes of this Act, and by additional Commissioners, and Commissioners for Special Purposes, acting in the Execution thereof, in respect of the Duties contained in Schedule (D.).

Oath to be taken by Commissioners acting in respect of the duties contained in Schedule (D.).

"I A.B. do swear [*or* affirm, *as the case may be*], that I will truly, faithfully, impartially, and honestly, according to the best of my skill and knowledge, execute the powers and authorities vested in me by an Act passed in the year of the reign of Queen Victoria, intituled [*here set forth the title of this Act*], and that I will exercise the powers intrusted to me by the said Act in such manner only as shall appear to me necessary for the due execution of the same; and that I will judge and determine upon all matters and things which shall be brought before me under the said Act without favour, affection, or malice; and that I will not disclose any particular contained in any schedule or statement delivered with respect to any duties charged under the provisions and regulations relating to Schedule (D.) of the said Act, or any evidence or answer given by any person who shall be examined, or shall make affidavit, deposition, or affirmation respecting the same, in pursuance of the said Act, excepting in such cases and to such persons only who shall be sworn to the due execution of this Act, and where it shall be necessary to disclose the same for the purposes of the said Act, or to the Commissioners of [[2]Stamps

[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

[2] Now Inland Revenue, see the Income Tax Act, 1853 (16-7 V. c. 34), s. 9.

and Taxes,] or in order to or in the course of a prosecution for perjury committed in such examination, affidavit, deposition, or affirmation.
So help me God."

Form of Oath or Affirmation to be taken by Inspectors and Surveyors as aforesaid.

Oath to be taken by inspectors and surveyors.

"I A.B. do swear [*or* affirm], that in the execution of an Act passed in the year of the reign of Queen Victoria, intituled [*here set forth the title of this Act*], I will examine and revise all statements, schedules, and declarations delivered within my district, and in objecting to the same I will act according to the best of my information and knowledge, and that I will conduct myself without favour, affection, or malice, and that I will exercise the powers intrusted to me by the said Act in such manner only as shall appear to me to be necessary for the due execution of the same, or as I shall be directed by the Commissioners of [[1]Stamps and Taxes,] or any two or more of them; and that I will not disclose any particular contained in any statement or schedule, with respect to any duties charged under the provisions and regulations relating to Schedule (D.) of the said Act, or any evidence or answer given by any person who shall be examined, or shall make affidavit, deposition, or affirmation respecting the same, in pursuance of the said Act, except in such cases and to such persons only who shall be sworn to the due execution of the said Act, and where it shall be necessary to disclose the same for the purposes of the said Act, or to the Commissioners of [[1]Stamps and Taxes,] or in order to or in the course of a prosecution for perjury committed in such examination, affidavit, deposition, or affirmation.
So help me God."

Form of Oath or Affirmation to be taken by Assessors as aforesaid.

Assessor's oath.

"I A.B. do swear [*or* affirm], that in the execution of an Act passed in the year of the reign of Queen Victoria, intituled an Act [*here set forth the title of this Act*], I will in all respects act diligently and honestly, and without favour or affection, to the best of my knowledge and belief, and that I will not disclose any particular contained in any statement or schedule delivered to me in the execution of the said Act, with respect to any duties charged under the provisions and regulations relating to Schedule (D.) of the said Act, except in such cases and to such persons only who shall be sworn to the due execution of the said Act, and where it shall be necessary to disclose the same for the purposes of the said Act, or in order to or in the course of a prosecution for perjury committed in any matter relating to such statement or schedule. So help me God."

Form of Oath or Affirmation to be taken by the Collectors and Officers for Receipt.

Oath for collectors and officers for receipt.

"I A.B. do swear [*or* affirm], that in the execution of an Act passed in the year of the reign of Queen Victoria, intituled an Act [*here set forth the title of this Act*], I will not disclose any assessment or the amount of any sum paid or to be paid by any individual under the said Act, or the books of assessment which shall be delivered to me in the execution of the said Act, with respect to any duties charged under the provisions and

[1] Now Inland Revenue, see the Income Tax Act, 1853 (16-7 V. c. 34), s. 9.

regulations relating to Schedule (D.) of the said Act, except in such cases and to such persons only who shall be sworn to the due execution of the said Act, and where it shall be necessary to disclose the same for the purposes of the said Act, or to the Commissioners of [1Stamps and Taxes,] or in order to or in the course of a prosecution for perjury committed in relation to the said duties. So help me God."

Form of Oath or Affirmation to be taken by a Clerk or Clerk's Assistant to the Commissioners as aforesaid.

Clerk's oath.

"I A.B. do swear [*or* affirm], that I will diligently and faithfully execute the office of a clerk [*or* assistant clerk, *as the case may be*], according to an Act passed in the year of the reign of Queen Victoria, intituled an Act [*here set forth the title of this Act*], to the best of my knowledge and judgment; and that I will not disclose any particular contained in any statement, declaration, or schedule with respect to the duties charged under the provisions and regulations relating to Schedule (D.) of the said Act, or any evidence or answer given by any person who shall be examined, or shall make affidavit, deposition, or affirmation respecting the same, except in such cases and to such persons only who shall be sworn to the due execution of the said Act, and where I shall be directed so to do by the regulations of the said Act, or any two or more of the Commissioners under whom I act, or of the Commissioners of [1Stamps and Taxes,] or in order to and in the course of a prosecution for perjury committed on such examination, affidavit, deposition, or affirmation. So help me God."

Schedule (G.), and the rules therein, to be observed in executing the Act.

190. [2And be it enacted, that] the schedule marked (G.), with the rules and directions therein contained, shall, in making returns of the amount of annual value or profits on which any duty is chargeable under this Act, so far as the same are respectively applicable to the case of each person, corporation, company, or society described or mentioned in this Act, on behalf of themselves, and also of others for whom they act in any of the characters described in this Act, or hereinafter mentioned, be observed by each such person, corporation, company, or society, or by his or their agents or officers, in the cases where such agents or officers are authorized to make such returns.

SCHEDULE (G.).

By occupiers of lands, &c. charged under Schedules (A.) and (B.).

I.—By every Occupier of Lands, Tenements, Hereditaments, or Heritages throughout Great Britain, to be charged under Schedules (A.) and (B.), or either of them.

A statement of the rent and annual value, or the annual value, as the case shall require, of all lands, tenements, and hereditaments or heritages, occupied in every parish or place, distinguishing the proportions in each parish or place, and estimating separately such as are occupied as owner or tenant, and also such as are held under different landlords, and also such as are chargeable by the rent or annual value, or on the amount of profits; and also estimating separately the rent or annual value chargeable in respect of

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[1] Now Inland Revenue, see the Income Tax Act, 1853 (16-7 V. c. 34), s. 9.

[2] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

the property, and the amount chargeable in respect of the occupation distinguishing the same as follows: (*videlicet,*)

Lands and tenements occupied as owner:

Lands and tenements let at rackrent within seven years:

Lands and tenements let at rackrent before the period of seven years, with the rent and annual value thereof estimated separately:

Lands and tenements let, but not at rackrent, with the rent and annual value thereof estimated separately:

The amount at which such lands and tenements are rated to the poor:

The amount of the composition, rent, rentcharge, or annual payment paid in the preceding year to the rector or vicar or other person, for tithes of the above lands and tenements:

The amount of each deduction claimed in respect thereof, and stating if tithe-free in part or in the whole, and the amount of any modus for tithes or real composition.

By lay impropriators and ecclesiastical persons, under Schedule (A.).

II.—By every Lay Impropriator, and by every Ecclesiastical Rector, Vicar, or other person (describing himself) receiving any Tithes in Kind, or any payments in right of the Church, or by endowment, or in lieu of any tithes, and on all Teinds in Scotland, to be charged under Schedule (A.), distinguishing the same as follows:

The amount of the profits from tithes taken in kind for one year, on an average of three years:

The amount of dues and money payments in right of the church, or by endowment, or in lieu of tithes not arising from lands, on the above average:

The amount of compositions, rents, and payments in lieu of tithes arising from lands for the preceding year.

By Corporations, &c. under Schedule (A.).

III.—By every Person, Corporation, or Company carrying on any Concern hereinafter mentioned, or their Agents or Officers, in the Cases authorized to be charged under Schedule (A.).

The amount of profits, from quarries of stone, slate, limestone, or chalk, in the preceding year:

Of iron works, salt springs or works, alum mines or works, waterworks, streams of water, canals, inland navigations, docks, drains, levels, fishings, rights of markets and fairs, tolls, railways and other ways, bridges and ferries, in the preceding year:

Of mines of coal, tin, lead, copper, mundic, iron, and other mines, on an average of five years.

By lords of manors.

IV.—By every Lord or Lady of a Manor or other Royalty, or Tenant of the same.

The amount of all dues and other services or other casual profits (except rents and annual payments) of such manors or royalties, on an average of seven years.

By receivers of fines under Schedule (A.).

V.—By the Receiver of any Fine paid in consideration of a Demise of Lands or Tenements (except Customary) to be charged under Schedule (A.).

The amount of such fines in the preceding year, or for such lesser period since the interest thereon commenced, and an estimate of the average value for one year.

VI.—By every Person entitled to Profits arising from Lands, Tenements, Hereditaments, or Heritages not before stated, to be charged under Schedule (A.). By profits from lands, &c. under Schedule (A.).

The amount, on a fair average, to be allowed by the respective Commissioners.

VII.—By or for every Person carrying on any Trade, Manufacture, Adventure, or Concern in the Nature of Trade, to be charged under Schedule (D.). By persons carrying on trade charged under Schedule (D.);

The amount of the balance of the profits thereof, upon a fair and just average of three years, or for such shorter period as the concern has been carried on.

VIII.—By every Person exercising any Profession, Employment, or Vocation, to be charged under Schedule (D.). or exercising professions

The amount of the balance of the profits, gains, and emoluments thereof within the preceding year.

IX.—By every Person entitled to profits of an uncertain Value not before stated, to be charged under Schedule (D.). or entitled to profits of uncertain values;

The full amount of the profits or gains arising therefrom within the preceding year.

X.—By every Person receiving in Great Britain[1] Interest from Securities out of Great Britain,[1] to be charged under Schedule (D.). or receiving interest from foreign securities;

The full amount that has been received or will be received, as far as the same can be computed in the current year.

XI.—By every person receiving in Great Britain[1] Profits from Possessions out of Great Britain,[1] to be charged under Schedule (D.). or profits from foreign possessions;

The full net amount annually received therefrom, either by remittances, or importation of property, or money or value from property not imported, or on credit, or on account in respect of remittances, property or value, on an average of the three preceding years.

XII.—By every Person entitled to any annual Profits not falling under any of the foregoing Rules, and not charged by any of the other Schedules, to be charged under Schedule (D.). or any other profits charged under Schedule (D.).

The full amount thereof received annually, or according to the average directed to be taken by the Commissioners on a statement of the nature of such profits, and the grounds on which the amount has been computed, and the average taken to the best of the party's knowledge and belief.

XIII.—Declarations to be delivered in respect of the duty to be charged under Schedule (D.). Declaration in respect of duty under Schedule (D.).

First.—Declaration by the precedent acting partner, or by the agent if none of the partners are resident in Great Britain,[1] of the names of the several partners, their respective residences, and the place of carrying on

[1] Now the United Kingdom, see the Income Tax Act, 1853 (16-7 V. c. 34).

the trade or concern, or exercising the profession, and the style or description of the firm:

Second.—Declaration by any partner, not being the precedent acting partner, of his being assessed with the firm, describing the same, and the place where the return of the precedent partner was made:

Third.—Declaration which may be made by each partner desirous of being and entitled to be separately assessed, describing the firm, and his proportion of the profits.

Statement of profits not chargeable where the office is held.

XIV.—Statement of Profits of any Office not chargeable by Commissioners especially appointed in the Department where the Office is held.

The amount of the salary, fees, wages, perquisites, and profits of office in the preceding year, or on an average of three years, as the case shall require.

The like statement to be delivered to the Commissioners appointed in the department, if required.

General declarations.

XV.—General Declaration by each Person returning a Statement of Profits under Schedules (A.) (B.) (D.) or (E.).

Declaring the truth thereof, and that the same is fully stated on every description of property or profits included in the Act relating to the said duties, and appertaining to the party, estimated to the best of his judgment and belief, according to the directions and rules of this Act.

List and declaration in relation to duties chargeable on others.

XVI.—List and Declaration for facilitating the Execution of the Act in relation to the Duties chargeable on others.

First.—List containing the name of every lodger or inmate in any dwelling-house, with the ordinary place of residence of such lodger or inmate, if he shall have any ordinary place of residence elsewhere, at which he is desirous of being assessed:

Second.—List of every person in the service or employ of any master or mistress, whether resident in his or her dwelling house or not, and the place of residence of those not residing with the master or mistress:

Third.—List to be delivered by every trustee, factor, agent, receiver, guardian, tutor, curator, or committee of the name and place of residence of the person for whom they act in such character, describing him, and the names of them who are joined in trust:

Fourth.—Declaration on whom the duty is chargeable in respect of such trust:

Fifth.—List containing the proper description of every corporation, company, fraternity, fellowship, society, or trust for which any person is answerable as treasurer, auditor, or receiver, and where any person before described is answerable for the duty to be charged in respect of the property or profits of others, such lists as aforesaid shall be delivered, together with required statements of such profits.

Lists, declarations, &c. in order to obtain exemptions.

XVII.—Lists, Declarations, and Statements of Discharge, or in order to obtain Exemptions.

First.—Declaration of the amount of value or property or profits returned, or for which the claimant hath been or is liable to be assessed:

Second.—Declaration of the amount of rents, interests, annuities, or other

annual payments, for which the party is liable to allow and deduct the duty, with the names of the respective persons by whom such payments are to be made, distinguishing the amount of each payment:

Third.—Declaration of the amount of interest, annuities, or other annual payments to be made out of the property or profits assessed on the claimant, distinguishing each source:

Fourth.—Statement of the amount of income derived according to the three preceding declarations:

Fifth.—Statement of any payment which the claimant may be liable to make, and out of which he may be entitled to deduct or retain any portion of the duty charged upon him, and of any charge which he may be entitled to make against any other person for any portion of such duty.

What number of Commissioners competent to execute any of the powers given by this Act.

191. [[1]And be it enacted, that wherever by this Act any appointment is directed or authorized to be made, or any act, matter, or thing whatever is required to be done or performed, by the Commissioners of her Majesty's Treasury, every such appointment, act, matter, and thing may lawfully be made, done, and performed respectively by any three or more of the said Commissioners for the time being; and] wherever any order, consent, authority, or direction of the [[1]said Commissioners of her Majesty's] Treasury is prescribed or required by this Act, every such order, consent, authority, and direction may be signified [[1]either under the hands of any three or more of the said Commissioners or] under the hand of one of their secretaries or assistant secretaries; and wherever any of the powers and authorities given by this Act are required or directed to be put in execution, or any assessment, warrant, order, precept, notice, certificate, contract of composition, or other document is by this Act or any Act herein recited or referred to is required or directed to be made, signed, or issued by the Commissioners for General Purposes, or the additional Commissioners, or the Commissioners for Special Purposes, or the Commissioners for [[2]Stamps and Taxes,] or any other Commissioners acting in the execution of this Act, every such power and authority shall and may lawfully be put in execution, and every such assessment, warrant, order, precept, notice, certificate, contract, or other document, shall and may lawfully be made, signed, and issued respectively by any two or more of the said respective Commissioners; provided that where any act, matter, or thing is directed or authorized to be done or performed by or before one of such respective Commissioners, such act, matter, or thing may lawfully be done or performed by or before such one Commissioner, anything herein contained notwithstanding.

Construction of the terms used in this Act.

192. [[3]And be it enacted, that] wherever in this Act, with reference to any person, matter, or thing, any word or words is or are used importing the singular number or the masculine gender only, yet such word or words shall be understood to include several persons as well as one person, females as well as males, bodies politic or corporate as well as individuals, and several matters or things as well as one matter or thing, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction; and that wherever the terms and expressions following

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[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1890 (53-4 V. c. 51).

[2] Now Inland Revenue, see the Income Tax Act, 1853 (16-7 V. c. 34), s. 9.

[3] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1888 (51-2 V. c. 57).

occur in this Act they shall be construed respectively in the manner hereinafter directed; (that is to say,) that [[1]the expression "her Majesty" shall be construed to mean and include her Majesty, her heirs and successors; the expression "Commissioners of her Majesty's Treasury" shall mean and include the Commissioners of her Majesty's Treasury of the United Kingdom of Great Britain and Ireland, or any three or more of them, or the Lord High Treasurer of the said United Kingdom for the time being;] the term "affidavit" and the term "oath" shall respectively mean and include an affirmation in the case of quakers or other persons entitled by law to make an affirmation in lieu of an affidavit or oath; the term "England" shall mean and include England and Wales and Berwick-upon-Tweed.

Commencement and continuance of the Act.

193. [2]And be it enacted, that this Act shall commence and take effect from and after the 5th day of April, 1842, and, together with the duties therein contained, shall continue in force until the 6th day of April, 1845, and no longer: Provided always, that this Act and the said duties shall not then cease with respect to any assessment which ought to have been made before the said last-mentioned day, but which shall not then have been made and completed, nor with respect to any of the said duties which shall have been assessed and shall then remain unpaid, nor with respect to any penalty before then incurred, the said duties shall not cease in such districts where the assessments for the preceding year shall not have been completed before the said 6th day of April, but that all the powers and provisions of this Act shall continue in force, for making and completing all such assessments as aforesaid, and for levying and recovering the duties so assessed or to be assessed, and all arrears of such duties, and also for re-assessing the same, in default of payment in the manner herein directed, and for the suing for, adjudging, and recovering any penalty which shall have been or may be incurred.

Act may be amended this session.

194. [3]And be it enacted, that this Act may be amended or repealed by any Act to be passed in this present session of Parliament.

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[1] The part in brackets is repealed by the Statute Law Revision (No. 2) Act, 1890 (53-4 V. c. 51).

[2] Sect. 193 is repealed by the Statute Law Revision (No. 2) Act, 1874 (37-8 V. c. 96).

[3] Sect. 194 is repealed by the Statute Law Revision (No. 2) Act, 1874 (37-8 V. c. 96).

Appendix VI.

THE INCOME TAX ACT, 1853.

(16 & 17 Vict. c. 34.)

An Act for granting to her Majesty Duties on Profits arising from Property, Professions, Trades, and Offices. [28th June, 1853.]

[[1]Most gracious Sovereign,

We your Majesty's most dutiful and loyal subjects the Commons of the United Kingdom of Great Britain and Ireland in Parliament assembled, towards raising the necessary supplies to defray your Majesty's public expenses and making an addition to the public revenue, have freely and voluntarily resolved to give and grant unto your Majesty the several rates and duties hereinafter mentioned, and do therefore most humbly beseech your Majesty that it may be enacted; and be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:]

From 5th April, 1853, certain duties herein mentioned to be charged on property, &c.

1. [2]From and after the fifth day of April one thousand eight hundred and fifty-three there shall be charged, raised, levied, collected, and paid yearly unto and for the use of her Majesty, her heirs and successors, during the respective terms hereinafter limited, the several rates and duties hereinafter mentioned; (that is to say,)

For and in respect of the property in any lands, tenements, or hereditaments in the United Kingdom, and for and in respect of every annuity, pension, or stipend payable by her Majesty, or out of the public revenue of the United Kingdom, and for and in respect of all interest of money, annuities, dividends, and shares of annuities, payable to any person or persons, bodies politic or corporate, companies or societies, whether corporate or not corporate, and for and in respect of the annual profits or gains arising or accruing to any person or persons whatever resident in the United Kingdom, from any kind of property whatever, whether situate in the United Kingdom or elsewhere, or from any annuities, allowances, or stipends, or from any profession, trade, or vocation, whether the same shall be respectively exercised in the United Kingdom or elsewhere, and for and in respect of the annual profits

[1] The part in brackets is repealed by the Statute Law Revision Act, 1892 (55-6 V. c. 19).

[2] Sect. 1 is repealed by the Statute Law Revision Act, 1875 (38-9 V. c. 66).

or gains arising or accruing to any person or persons not resident within the United Kingdom from any property whatever in the United Kingdom, or from any trade, profession, or vocation exercised in the United Kingdom, for every twenty shillings of the annual value or amount thereof,—

	£	s.	d.
During the term of two years from the fifth day of April one thousand eight hundred and fifty-three, the yearly duty of -	0	0	7
And during the further term of two years from the fifth day of April one thousand eight hundred and fifty-five, the yearly duty of - - - - - - -	0	0	6
And during the further term of three years from the fifth day of April one thousand eight hundred and fifty-seven, the yearly duty of - - - - - -	0	0	5

And for and in respect of the occupation of such lands, tenements, or hereditaments (other than a dwelling-house occupied by a tenant, distinct from a farm of lands), for every twenty shillings of the annual value thereof,—

	In England.			In Scotland and Ireland.		
	£	s.	d.	£	s.	d.
During the said first-mentioned term of two years, the yearly duty of - - -	0	0	$3\frac{1}{2}$	0	0	$2\frac{1}{2}$
And during the said further term of two years, the yearly duty of - - - -	0	0	3	0	0	$2\frac{1}{4}$
And during the said further term of three years, the yearly duty of - - - -	0	0	$2\frac{1}{2}$	0	0	$1\frac{3}{4}$

Duties payable in respect of subjects described in schedules.

2. For the purpose of classifying and distinguishing the several properties, profits, and gains for and in respect of which the said duties are by this Act granted, and for the purposes of the provisions for assessing, raising, levying, and collecting such duties respectively, the said duties shall be deemed to be granted and made payable yearly for and in respect of the several properties, profits, and gains respectively described or comprised in the several schedules contained in this Act, and marked respectively (A.), (B.), (C.), (D.), and (E.), and to be charged under such respective schedules; (that is to say,)

SCHEDULE (A.).

For and in respect of the property in all lands, tenements, hereditaments, and heritages in the United Kingdom, and to be charged for every twenty shillings of the annual value thereof:

SCHEDULE (B.).

For and in respect of the occupation of all such lands, tenements, hereditaments, and heritages as aforesaid, and to be charged for every twenty shillings of the annual value thereof:

SCHEDULE (C.).

For and in respect of all profits arising from interest, annuities, dividends, and shares of annuities payable to any person, body politic or corporate, company or society, whether corporate or not corporate, out of any public revenue, and to be charged for every twenty shillings of the annual amount thereof:

SCHEDULE (D.).

For and in respect of the annual profits or gains arising or accruing to any person residing in the United Kingdom from any kind of property whatever, whether situate in the United Kingdom or elsewhere, and for and in respect of the annual profits or gains arising or accruing to any person residing in the United Kingdom from any profession, trade, employment, or vocation, whether the same shall be respectively carried on in the United Kingdom or elsewhere, and to be charged for every twenty shillings of the annual amount of such profits and gains:

And for and in respect of the annual profits or gains arising or accruing to any person whatever, whether a subject of her Majesty or not, although not resident within the United Kingdom, from any property whatever in the United Kingdom, or any profession, trade, employment, or vocation exercised within the United Kingdom, and to be charged for every twenty shillings of the annual amount of such profits and gains:

And for and in respect of all interest of money, annuities, and other annual profits and gains not charged by virtue of any of the other schedules contained in this Act, and to be charged for every twenty shillings of the annual amount thereof:

SCHEDULE (E.).

For and in respect of every public office or employment of profit, and upon every annuity, pension, or stipend payable by her Majesty or out of the public revenue of the United Kingdom, except annuities charged to the duties under the said Schedule (C.), and to be charged for every twenty shillings of the annual amount thereof.

Duties on fractional parts.

3. Upon every fractional part of twenty shillings of the annual value or amount of the property, profits, and gains aforesaid, the like proportion of duty at the respective rates aforesaid shall be charged; provided that no duty shall be charged of a lower denomination than one penny.

Duties to be under the management of the Commissioners of Inland Revenue.

4. The duties by this Act granted shall be under the direction and management of the Commissioners of Inland Revenue for the time being, who are hereby empowered to employ all such officers or other persons, and to do all such other acts and things as may be deemed necessary or expedient for the raising, collecting, receiving, and accounting for the said duties, and for putting this Act into execution in and throughout the United Kingdom, in the like and in as full and ample a manner as they are authorized to do with relation to any other duties under their care and management.

Duties to be assessed and raised under the provisions of recited Acts.

5. The said duties hereby granted shall be assessed, raised, levied, and collected under the regulations and provisions of the Act passed in the session of Parliament held in the fifth and sixth years of her Majesty, chapter thirty-five, and of the several Acts therein mentioned or referred to, and also of any Act or Acts subsequently passed explaining, altering, amending, or continuing the said first-mentioned Act; and for this purpose all the said several Acts shall be revived, and shall be deemed to have been and to be continued in force from the 5th day of April, 1853; and all such of the said regulations and provisions as have been enacted by the said Acts, or any of them, with reference to Great Britain or England, shall (so far as the same are or may be applicable consistently with the express provisions of this Act) be and the same are hereby extended to Ireland; and all powers, authorities, rules, regulations, directions, penalties, clauses, matters, and things contained in or

enacted by the said several Acts before recited or referred to, or any of them, shall, notwithstanding that the same may have expired, severally and respectively be and become in full force and effect with respect to the duties hereby granted, and shall in all cases not expressly provided for by this Act, and so far as the same are not superseded by and are consistent with the express provisions of this Act, severally and respectively be duly observed, applied, practised, and put in execution throughout the respective parts of the United Kingdom, for raising, levying, collecting, receiving, accounting for, and securing the said duties hereby granted, and for auditing the accounts thereof, and otherwise relating thereto, as fully and effectually to all intents and purposes as if the same powers, authorities, rules, regulations, directions, penalties, clauses, matters, and things were particularly repeated and re-enacted in the body of this Act with reference to the said duties hereby granted, and respectively applied to the several parts of the United Kingdom as aforesaid; and wherever in the said Acts, or any of them, the term "England" is used or mentioned, the same, in relation to the duties granted by this Act, shall be deemed to extend to and to mean also Ireland; and in like manner the term "Great Britain" shall be read as and deemed and construed to mean the United Kingdom; and where in the provisions of the said Acts her Majesty's Courts of Exchequer at Westminster, or any of her Majesty's Courts of Record at Westminster, is or are mentioned or referred to, such provisions shall, with reference to the duties under this Act to be assessed in Ireland be construed and take effect as if her Majesty's Court of Exchequer at Dublin, or her Majesty's Superior Courts of Record at Dublin, were mentioned or referred to instead of the said respective Courts at Westminster, and the said Act of the fifth and sixth years of her Majesty, chapter thirty-five, and the Acts explaining, altering, amending and continuing the same, and this Act, shall be construed and read together as one Act.

Provisions of former Act not to extend to exempt persons receiving profits from possessions or securities in Ireland, &c., or from foreign possessions or securities.

6. Provided always, that nothing in the said first-mentioned Act contained shall be deemed or construed to extend to exempt any person, although not resident in any part of the United Kingdom, from the duties granted by this Act in respect of the profits or gains received from or out of any possessions or securities in Ireland, or to exempt any person resident in any part of the United Kingdom from the said duties in respect of the profits or gains received from or out of any possessions or securities in any other of her Majesty's dominions, or any foreign possessions or securities.

Duties in respect of securities and possessions in Ireland to be charged in the same manner as securities and possessions of the like nature in Great Britain are chargeable, except as modified by this Act.

7. Provided also, that the duties in respect of interest arising from securities in Ireland, and in respect of possessions in Ireland, which by the said Act of the fifth and sixth years of her Majesty, chapter thirty-five, are directed to be charged and assessed respectively according to certain rules prescribed for charging the duties under the head respectively of "fourth case" and "fifth case" of Schedule (D.), and in section one hundred and six of the said Act, shall under this Act be charged and assessed in Ireland in the same manner and under the same schedules, rules, and regulations respectively as the duties on securities and possessions of the like nature in Great Britain are directed to be charged, except so far as such schedules, rules, and regulations are altered or modified in regard to the assessing or charging of duties in Ireland by the express provisions of this Act.

Persons holding offices in Ireland, and members of

8. Provided also, that, notwithstanding anything in the said Act of the fifth and sixth years of her Majesty contained, persons holding offices in Ireland and residing in Great Britain, and persons usually residing in

Ireland and serving in Parliament, shall be chargeable to the duties by this Act granted, without regard to any exemption from the duties of assessed taxes; and that this Act shall extend to charge persons resident in Ireland with the duties under Schedule (E.) in respect of public offices or employments, although the duties thereof are necessarily and permanently performed in Ireland.

Parliament residing in Ireland, to be chargeable, notwithstanding certain provisions in 5 & 6 Vict. c. 35.

9. The several persons chosen or appointed under the provisions of the said first-mentioned Act to be respectively Commissioners for the General Purposes of the said Act, and to be respectively additional or other Commissioners, being respectively duly qualified in that behalf, and also the several persons appointed to be and who on the 5th day of April, 1853, were Commissioners for the Special Purposes of the said Act, shall, without any further or other election, nomination, or appointment respectively, be such Commissioners as aforesaid for the like purposes under this Act; and wherever in the said Act, or in any Act relating to the duties thereby granted, mention is made of the Commissioners of Stamps and Taxes, the same in relation to the duties granted by this Act shall be construed and deemed to designate the Commissioners of Inland Revenue: Provided that no persons shall be Commissioners to supply vacancies amongst the said Commissioners for General Purposes except such persons as shall after the passing of this Act be chosen for that purpose in the manner provided by the said first-mentioned Act.

Commissioners appointed under former Acts to be Commissioners under this Act.

10. The provision made by the Act passed in the said session of the fifth and sixth years of her Majesty, chapter eighty, section two, for the assessing and charging the duties on dividends and shares of annuities payable out of the revenue of any foreign state, shall be and the same is hereby extended to the assessing and charging of the duties granted by this Act, as well on such dividends and shares of annuities as aforesaid as on all interest, dividends, or other annual payments payable out of or in respect of the stocks, funds, or shares of any foreign company, society, adventure, or concern, or in respect of any securities given by or on account of any such company, society, adventure, or concern, and which said interest, dividends, or annual payments have been or shall be intrusted to any person in the United Kingdom for payment to any persons, corporations, companies, or societies in the United Kingdom, and all persons intrusted with the payment of any such interest, dividends, or other annual payments as aforesaid in the United Kingdom, or acting therein as agents or in any other character, shall and they are hereby required to do and perform all such acts, matters, and things, in order to the assessing and charging and paying of the said duties on all such interest, dividends, or other annual payments as aforesaid, and under and subject to the like penalty or other liability for any neglect, refusal, or default in that behalf, as by the said Act of the fifth and sixth years of her Majesty, chapter eighty, persons intrusted with the payment of annuities or any dividends or shares of annuities are required to do and perform, or are subject or liable to for any similar neglect, refusal, or default; and the assessments of the duties on all such interest, dividends, and other annual payments as aforesaid shall be made by the Commissioners for Special Purposes under Schedule (D.) of this Act, and the said Commissioners shall do and perform all such acts, matters, and things in relation to such assessments as by the said Act, chapter eighty, they are required to do or perform in relation to any assessment under the said last-mentioned Act.

Persons intrusted with the payment in the United Kingdom of interest or dividends from foreign companies to do all acts necessary in order to assessments being made thereon in manner directed by 5 & 6 Vict. c. 80.

Governor and directors of the Bank of Ireland to be Commissioners for assessing duties on annuities, dividends, pensions, and salaries payable by the bank, and on their profits.

11. The governor and directors [[1]of the company] of the Bank of Ireland shall be Commissioners for executing this Act, for the purpose of assessing and charging the duties hereby granted in respect of all annuities, dividends and shares of annuities payable by [[1]the governor and company of] the Bank of Ireland out of the public revenue of the United Kingdom to any persons, corporations, or companies whatever, and in respect of all profits and gains of the said company chargeable under Schedule (D.) of this Act, and in respect of all other dividends, interests, annuities, pensions, and salaries payable by the said company, and also in respect of all other profits chargeable with duty under this Act and arising within any office or department under the management or control of the said governor and company; and the said last-mentioned Commissioners shall have, use, and exercise all the powers and authorities of Commissioners for the general purposes of this Act, so far as the same relate to the said duties to be assessed and charged by the said governor and directors, and shall make their assessments of the said duties, under and subject to the rules, regulations, and exemptions contained in the said first-mentioned Act in relation to the said duties respectively: Provided always, that the duties by this Act granted shall extend to and be payable upon all annuities, dividends, and share of annuities payable in Ireland out of the revenue of the United Kingdom to or for the use or benefit of any person, whether resident in Ireland or elsewhere.

The clerks of the Boards of Guardians in Ireland to transmit to the Commissioners of Inland Revenue annually copies of the poor rates.

12. In order to the assessing of the duties chargeable under the respective Schedules (A.) and (B.) of this Act in Ireland, the clerk of the board of guardians of every poor law union in Ireland, or the person acting as such clerk, shall, [[2]within one month after the passing of this Act, and between the fifth day of April and the first day of June in every succeeding year,] transmit to the Commissioners of Inland Revenue, at their head office in Dublin, true copies of the last rates made by such guardians for the relief of the poor in such union, and in every electoral division thereof, and the Collector General of Rates in the City of Dublin shall, in like manner [[2]and within the same period in each year,] transmit to the said Commissioners true copies of the last rates made for the relief of the destitute poor in the several electoral divisions or parts thereof in which he is by law authorized to make and declare such rates; and the Commissioners of Inland Revenue shall pay to the said clerk and collector respectively the cost and expense of making all such copies, not exceeding the rate of two shillings and sixpence for every one hundred ratings; and if any such clerk or any person acting as such clerk or such collector shall in any year neglect to transmit such copies in compliance with this enactment he shall for every such neglect forfeit the sum of fifty pounds.

Duties under Schedules (A.) and (B.) in Ireland to be assessed according to the valuations under the Poor Relief Acts.

13. The duties chargeable in Ireland under the respective Schedules (A.) and (B.) of this Act shall be charged and assessed by a poundage rate upon the annual value of all tenements and rateable hereditaments, according to the respective surveys and valuations made or to be made and from time to time in force for the purposes of the rates for the relief of the poor in Ireland; and the assessment of the said duties in Ireland chargeable under

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[1] The part in brackets is repealed by the Statute Law Revision Act, 1892 (55-6 V. c. 19).

[2] The part in brackets is repealed by the Statute Law Revision Act, 1875 (38-9 V. c. 66).

the said Schedule (A.) shall be made upon the landlord or immediate lessor of such tenements or rateable hereditaments, or if it shall appear to the Commissioners for Special Purposes to be necessary or proper, the said assessment shall be made upon such person as the rate for the relief of the poor shall be made upon in respect of any such property under the provisions of the Acts in that behalf; and the assessment of the said duties chargeable under the said Schedule (B.) shall be made upon the occupier of such property: Provided always, that if upon the appeal, as hereinafter mentioned, of any person deeming himself aggrieved by any such assessment, it shall be proved to the satisfaction of the Commissioners, assistant barrister, chairman, or recorder, by whom such appeal shall be heard or re-heard, as the case may be, that such assessment is made upon an amount or value exceeding the annual rent at which the property in respect whereof such assessment is made is worth to be let from year to year, the person hearing or re-hearing such appeal shall give relief by reducing and rebating such assessment, and charging the duties on the amount of such annual value as aforesaid, notwithstanding that the same may be less than the annual value of the premises according to any such survey or valuation as aforesaid; and if such annual value at which such property is worth to be let as aforesaid shall exceed the actual rent payable yearly by the tenant or occupier of such premises, the landlord or immediate lessor shall be assessed under Schedule (A.) upon the amount of such actual rent only, and the tenant or occupier shall be assessed under the said Schedule (A.) on the difference between that amount and the amount of such last-mentioned annual value, subject nevertheless to any claim for exemption which the parties respectively may be entitled to: Provided also, that where any person receiving rent in respect of any hereditament in Ireland exempt from being rated to the relief of the poor is liable to be rated in respect of such rent to the extent of one half the poundage of any poor rate, the said duties in Ireland chargeable under the said Schedule (A.) shall be charged and assessed upon such person by a poundage rate upon the full amount of such rent.

On whom assessments to be made.

Persons receiving rent out of hereditaments in Ireland exempt from poor rates to be assessed to full amount of rent.

14. Provided also, that if in any case it appears to the Commissioners of Inland Revenue that any such valuation as aforesaid for the time being in force is not correct (having reference to the principles according to which the same ought by law to have been made,) with respect to all or any of the tenements or rateable hereditaments included therein, it shall be lawful for such Commissioners to direct the Commissioner of valuation to make or cause to be made a re-valuation of the tenements or hereditaments with respect to which the said valuation is incorrect, and such Commissioner of valuation shall forthwith, with all convenient speed, make or cause to be made such re-valuation accordingly, and sign the same and transmit it to the Commissioners of Inland Revenue; and such re-valuation shall be made according to the principles or rules according to which such incorrect valuation ought by law to have been made, and the duties chargeable under the said Schedules (A.) and (B.), shall, after such re-valuation, be charged and assessed according thereto: Provided that if any person assessed to the last-mentioned duties according to such re-valuation deem himself aggrieved thereby, it shall be lawful for him to appeal against such assessment on the ground of the incorrectness of such re-valuation, and upon such appeal it shall be lawful for the Commissioners, assistant barrister, chairman, or recorder hearing or re-hearing such appeal to alter as well such re-valuation

Commissioners of Inland Revenue may direct re-valuations where existing valuations are incorrect.

as the assessment thereon, and make such order in relation thereto as they or he may think fit.

Allowance for poor rates chargeable on the landlord's rent in Ireland.

15. In assessing in Ireland the duties chargeable under Schedule (A.) of this Act on the landlord or immediate lessor, in every case where the amount or annual value on which the assessment is made on him is not less than the annual rent reserved or payable to him for the premises in respect of which the assessment is made, an allowance or abatement of a proportionate part of the duty shall be made in respect of the amount of the poor rates which such landlord or lessor shall have paid or borne for the same premises in the year preceding; and if the amount or annual value on which such assessment as aforesaid is made shall be less than the said rent, then such allowance or abatement as aforesaid shall be made only in respect of so much as the amount of the said poor rate added to the sum on which the assessment is made shall exceed the actual rent.

By whom assessments under Schedules (A.) and (B.) in Ireland are to be made and collected.

16. All assessments of the said duties under the said Schedules (A.) and (B.) in Ireland, shall be made by surveyors of taxes or other officers of Inland Revenue acting in that behalf under the directions of the Commissioners of Inland Revenue; and every such assessment shall be made for and comprise the respective premises situate within a union, or an electoral division, or such other district as the said last-mentioned Commissioners shall direct; and the same shall be signed by two of the Commissioners for Special Purposes, who shall cause duplicates thereof, together with their warrants for the collecting and levying of the sums thereby assessed, to be delivered to such person or persons as they shall appoint to be collectors of such assessments.

How assessments in Ireland under Schedules (A.) and (B.) are to be collected, levied, and recovered.

17. Every such assessment in Ireland of the duties under the said Schedules (A.) and (B.) of this Act may be collected, levied, and recovered by distress by the person appointed in manner aforesaid to be the collector thereof from the person assessed, or from the occupier of the property assessed, or may be levied upon the particular premises in respect of which the assessment is made; and all goods and chattels, to whomsoever the same shall belong, found on such premises in respect of which any assessment is made of the said duties under this Act, shall be liable to be distrained and sold for the recovery of the said duties; or such duties as aforesaid, or any arrears thereof, may be levied and recovered in the same manner as other duties assessed in Ireland under this Act may be levied and recovered: Provided always, that the duty assessed under the said Schedule (A.) upon or in respect of any tenement or hereditament may be collected, recovered, and levied by the said collector from the landlord or immediate lessor of the premises assessed, whether he be named in the assessment or not; and to that end such collector is hereby authorized and empowered to use, exercise, and put in force against such landlord or immediate lessor all or any of the remedies, ways, and means provided by an Act of the first and second years of her Majesty, chapter fifty-six, and an Act of the sixth and seventh years of her Majesty, chapter ninety-two, or either of the said Acts, by which any rate made for the relief of the destitute poor in Ireland may be collected, recovered, or levied from any immediate lessor primarily liable to the payment of rates for premises the occupier of which is exempted from such payment: Provided also, that where any proceeding for the recovery of any such rate is by law required to be had or taken in the name of the guardians of a poor law union, or by the direction or with the consent of such guardians or of the Poor Law Commissioners, or by or with any other direction or consent,

the like proceeding for the recovery of the said duties under this Act may be had and taken by and in the name of such collector as aforesaid, and without any such direction or consent; provided that where any assessment under the said Schedule (A.) shall have been made upon the tenant or occupier of the premises assessed, the landlord or immediate lessor shall be liable to be proceeded against in manner aforesaid only in default of payment of such assessment by the said tenant or occupier, and for the recovery of so much only of the duty assessed as shall be chargeable in respect of the rent payable yearly to such landlord or immediate lessor for the premises assessed.

Landlords in Ireland entitled to claim return of duty paid by them in respect of rent lost by bankruptcy or absconding of tenant.

18. When any landlord or immediate lessor of any tenement or hereditament in Ireland assessed to the duty chargeable under Schedule (A.) of this Act shall have paid such duty, and shall afterwards prove to the satisfaction of the Commissioners for Special Purposes that the rent due or payable to him in respect of such tenement or hereditament for the period for which the said duty was assessed, or any portion of such rent, has been wholly and irrecoverably lost by reason of the bankruptcy, insolvency, or absconding of the tenant or occupier by whom such rent was payable or by the fraudulent assignment or removal of his goods, or by reason of such tenement or hereditament being left waste and unoccupied, then and in such case the said landlord or lessor shall be entitled to be repaid such proportion of the said duty as he shall have paid in respect of the rent so lost; and the said Commissioners shall order and direct the repayment of such proportion of duty in like manner as by the said Act of the fifth and sixth years of her Majesty, chapter thirty-five, they are authorized to order and direct the repayment of duty in other cases, provided that such landlord or lessor shall make his claim for such repayment to the said Commissioners within the period of six calendar months after the expiration of the year for which the said duty was assessed.

Persons having the custody of valuations under the Poor Relief Acts in Ireland to produce same to officers under this Act, and to permit copies to be taken.

Penalty for refusal, &c.

19. Every person having in his custody or possession any survey or valuation on which the rates for any union or electoral division shall be assessed or made, or any rate or assessment made under the provisions of the Acts for the relief of the poor in Ireland, or any of them, shall, at the request of any inspector, surveyor, or other officer acting in the execution of this Act in Ireland, produce and show every such survey, valuation, rate, and assessment to such inspector, surveyor, or other officer, and permit him to inspect the same, and to take copies thereof or extracts therefrom without paying anything for the same; and in case the person having the custody or possession of any such survey, valuation, rate, or assessment, shall, on any such request as aforesaid, refuse to produce the same to such inspector, surveyor, or other officer, or to permit him to inspect the same, or to take copies thereof or such extracts as he may think fit to take therefrom, such person shall, for every such refusal, forfeit the sum of fifty pounds.

By whom assessments under Schedules (D.) and (E.) to be made in Ireland.

20. The assessments of the duties chargeable in Ireland under the several Schedules (D.) and (E.) of this Act shall be made by such surveyors of taxes, or other officers of Inland Revenue as the Commissioners of Inland Revenue shall appoint in that behalf; and such assessments shall be allowed and signed by the Commissioners for Special Purposes, who shall also appoint the times and places for hearing appeals against the same as hereinafter mentioned, and shall also cause due notice of every such assessment, and of the amount thereof, and of the time and place appointed for hearing any appeal against the same, to be given by some officer of Inland Revenue to every person so assessed.

Appeals in Ireland to be heard and determined by the Commissioners for Special Purposes.

21. All appeals against assessments under this Act in Ireland shall be heard and determined by the said Commissioners for Special Purposes, or any two of them, whose determination on any such appeal shall be final and conclusive, unless the person charged by the assessment shall think himself aggrieved by such determination, and shall require that such appeal shall be re-heard as hereinafter provided; and where any person charged by any such assessment as aforesaid, and to whom notice thereof and of the time and place appointed for hearing any appeal against the same shall be given as hereinbefore directed, shall neglect to appeal accordingly, such assessment shall also be conclusive, and such person shall be precluded from afterwards disputing or questioning the same.

Persons assessed aggrieved by determination of Commissioners may require appeal to be re-heard by an assistant barrister, &c.

22. If any person charged by an assessment in Ireland shall think himself aggrieved by the determination of the said Commissioners for Special Purposes in any such appeal as aforesaid, it shall be lawful for him, on giving notice in writing to the inspector or surveyor within ten days after such determination, to require that such appeal shall be re-heard by the assistant barrister for the county or riding where such person shall have been assessed, or in case he shall have been assessed in the county of Dublin, by the chairman of the sessions of the peace of such county, or in case such person shall have been assessed in the city of Dublin, by the recorder of such city, or in case such person shall have been assessed in the borough of Cork, by the recorder of such borough; and where any such appeal shall be so required to be re-heard, any statement or schedule in the possession of the said Commissioners for Special Purposes, returned to them for the purpose of such appeal, shall be transmitted by them to the assistant barrister, chairman, or recorder (as the case may require); and such assistant barrister, chairman, or recorder shall with all convenient speed re-hear and determine such appeal, and shall take the oath or affirmation required to be taken by a Commissioner for Special Purposes, and shall and may have and exercise the same powers and authorities in relation to the assessment appealed against, and the determination of the matter thereof and in relation to all matters consequent thereon, as any two or more Commissioners for Special Purposes might have and exercise, and his determination thereon shall be final and conclusive.

After hearing appeals in Ireland, Commissioners to cause duplicates of assessments to be delivered to collectors with warrants to collect the same.

23. After the respective times for hearing appeals against such assessments as aforesaid in Ireland, then as to all assessments against which appeals shall have been heard and determined, leaving any sum assessed or charged by any such assessment, and as to all assessments against which no appeal shall have been made, the Commissioners for Special Purposes shall cause duplicates thereof, together with warrants under the hands and seals of two of the said last-mentioned Commissioners, to be delivered to such officers of Inland Revenue or other persons as shall be named in such warrants respectively, appointing such persons to be collectors of the duties and sums of money assessed and charged in such duplicates respectively, and requiring and empowering such collectors respectively to collect, demand, levy, and recover all such duties and sums of money.

Commissioners for Special Purposes, inspectors, and surveyors of taxes, and other officers

24. The Commissioners for Special Purposes acting in the execution of this Act in Ireland in relation to the allowing or signing of any such assessment as aforesaid, and to the hearing and determining of any appeal against the same, and to the making and signing of any duplicate thereof and any warrant for collecting and levying the duties and sums of money charged or assessed thereby, and also all inspectors and surveyors of taxes, and other

officers of Inland Revenue acting in Ireland in relation to the making of any such assessment or to the assessing or charging of any person therein or thereby, and also all persons named or appointed by the said Commissioners to be respectively collectors of the said duties and sums of money in relation to the collecting, levying, distraining for, or otherwise recovering of the same, shall respectively be, and are hereby invested with, and shall have, use, and exercise all such and the like powers and authorities as any Commissioners, either for General or Special Purposes, or any additional Commissioners, and as any inspectors, surveyors, collectors, or other officers respectively have or are invested with, or can or may use or exercise in England in relation to the making or allowing of any assessment of duties under this Act, or to the assessing or charging of any person to such duties, or to the hearing or determining of any appeal against any such assessment, or to the collecting, levying, distraining for, or otherwise recovering of any such duties, so far as such powers and authorities or any of them are applicable or may be adapted to the performance of similar acts, matters, and things in Ireland.

to exercise the like powers in executing this Act in Ireland as Commissioners, inspectors, or officers may exercise in similar cases in England.

25. Nothing herein contained shall be construed to make any union, electorial division, or place in Ireland in which any assessment of any duties granted under this Act shall be made, answerable for the amount of duties charged in such place, nor for any neglect or default of the collector in demanding or collecting same, nor shall any re-assessment be made in Ireland upon any such place for any arrears or loss occasioned by any such neglect or default.

Unions, &c. in Ireland not to be responsible for neglect or default of collectors.

26. Where in any Court or department of office there shall not be a sufficient number of officers proper to be appointed Commissioners for executing this Act in relation to the duties on offices and employments of profit in such Court or department of office, it shall be lawful for the [[1]Commissioners of her Majesty's] Treasury to direct that the Commissioners for any other department shall execute this Act in relation to the offices and employments of profit in any such Court or department as aforesaid; and in default of a sufficient number of Commissioners being appointed in any such Court or department, and of such direction as aforesaid, the Commissioners for General Purposes in their respective districts in England and Scotland respectively, and the Commissioners for Special Purposes in Ireland, shall respectively put this Act in execution in relation to the duties on offices and employments in any such Court or department as aforesaid; and wherever in the said Act of the fifth and sixth years of her Majesty, chapter thirty-five, any power or direction is given to the Commissioners for executing the said Act in relation to the duties on lands and tenements to execute the same in their several districts in relation to the duties on offices and employments of profit, every such power and direction shall, in relation to the duties on offices and employments of profit in Ireland under this Act, be executed and carried out by the Commissioners for Special Purposes.

Who to be Commissioners where there are not sufficient officers in any Court or department.

Powers of Commissioners for General Purposes as to duties on offices to be executed in Ireland by Commissioners for Special Purposes.

27.[2] It shall be lawful for any person who shall be duly assessed by the Commissioners for Special Purposes for the duties on the profits and gains described in Schedule (D.) of this Act, for the first year for which the said duties are by this Act granted, to compound for the charging of the rate of duty which shall from time to time be payable under this Act for each and

Persons assessed under Schedule (D.) may compound.

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[1] The part in brackets is repealed by the Statute Law Revision Act, 1892 (55-6 V. c. 19).

[2] Sect. 27 is repealed by the Statute Law Revision Act, 1875 (38-9 V. c. 66).

every year up to the fifth day of April one thousand eight hundred and fifty-seven on the same amount of such profits and gains in which he shall have been so assessed; and it shall also be lawful for any person who shall be duly assessed as aforesaid for the year commencing from the said last-mentioned day in like manner to compound for the charging of the rate of duty which shall then be payable for each and every remaining year of the period for which the said duties are by this Act granted, on the same amount of such profits and gains in which he shall have been so assessed as last aforesaid; and the consideration for every such composition shall be the payment, in each and every year of the said composition, of an addition to the said duties at and after the rate of one shilling for every twenty shillings of the said duties; and every such composition shall be entered into and made with the Commissioners for Special Purposes, under and subject to the conditions, rules and regulations (*mutatis mutandis*) contained in the said Act of the fifth and sixth years of her Majesty, chapter thirty-five, in relation to compositions under the said last-mentioned Act, and the contract for the same shall be in such form as the Commissioners of Inland Revenue shall provide in that behalf.

Exemption of persons whose income is under 100*l.*, and abatement to those whose income is under 150*l.*, a year respectively.

28. [[1]The exemption granted by the said Act of the fifth and sixth years of her Majesty, chapter thirty-five, to persons whose respective incomes are less than one hundred and fifty pounds a year shall be limited and restricted under this Act to persons whose whole incomes from every source are less than one hundred pounds a year respectively:] [[2]Provided always, that any person who shall be assessed or charged to any of the duties granted by this Act, or shall have paid the same either by deduction or otherwise, and who shall claim and prove, in the manner prescribed by the said Act, that his total income from every source, although amounting to one hundred pounds or upwards, is less than one hundred and fifty pounds a year for the year of the assessment of his profits or gains, shall be entitled to be relieved from so much of the said duties assessed upon or paid by him as shall exceed the rate of fivepence for every twenty shillings of his profits or gains, and such relief shall be given either by reduction or abatement of the assessment upon such person, or by the repayment to him of so much of the said excess as he shall have paid, or by both of those means, as the case may require;] [[3]and in Ireland the income arising from the occupation of lands, tenements or hereditaments, by any person claiming such exemption or relief as aforesaid, shall be deemed to be one third of the annual value on which the same shall be chargeable under Schedule (B.) of this Act;] and all the provisions, rules, and regulations contained in the said Act of the fifth and sixth years of her Majesty, chapter thirty-five, in relation to the exemption of persons whose incomes are less than one hundred and fifty pounds a year, and to the reduction or abatement of any assessment upon such persons, or to the repayment to them of any duties or sums of money, shall be observed and applied, so far as the same are applicable (*mutatis mutandis*), to the exemption of persons whose incomes are less than one hundred pounds a year, and to the claims for relief in the manner aforesaid to persons whose incomes are less than one hundred and fifty pounds a year.

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[1] The part in brackets is repealed by the Statute Law Revision Act, 1878 (41-2 V. c. 79).

[2] The part in brackets is repealed by the Statute Law Revision Act, 1875 (38-9 V. c. 66).

[3] The part in brackets is repealed by the Finance Act, 1896 (59-60 V. c. 28).

In computing income from rent in Ireland poor rates to be deducted.

29. Provided always, that in computing the income of any person for the purposes of this Act, such computation, so far as regards any rent derived from tenements or hereditaments in Ireland chargeable under Schedule (A.), shall be made after allowing for the amount of poor rates chargeable on such rent by way of deduction or otherwise.

Persons claiming abatement of assessment, and proving their incomes to be under 100*l.* a year to be entitled to the same relief as if they had claimed exemption on the ground of their incomes being under that amount.

30. Where, on any application for relief, or abatement of assessment in pursuance of the provisions contained respectively in section one hundred and thirty-three and section one hundred and thirty-four of the said Act of the fifth and sixth years of her Majesty, chapter thirty-five, and in the third section of an Act of the fourteenth year of her Majesty's reign, chapter twelve, it shall be proved to the satisfaction of the Commissioners to whom such application shall be made that the total amount of the income from every source of the person claiming such relief or abatement for the year for which such assessment was made was under one hundred pounds,[1] such person shall be entitled to the same relief and repayment respectively as by this Act and the said first-mentioned Act is provided in the case of persons claiming relief on the ground of their respective annual incomes being less than one hundred pounds a year.

Claims of exemption or for reduction of assessment or repayment of duty in Ireland to be made to the Commissioners for Special Purposes.

31. In Ireland all claims of exemption by reason of the income of any person being under one hundred pounds[1] a year, and all claims for relief or reduction of assessment on the ground of such income being under one hundred and fifty pounds a year, and all claims for return or repayment of any duties on either of the grounds aforesaid, or under any other of the provisions of this Act or of the Acts herein mentioned or referred to, shall be made in such manner and form as the Commissioners of Inland Revenue shall direct and provide in that behalf; and all such claims shall be made to and shall be adjudicated and finally determined by the Commissioners for Special Purposes, or any two of them; provided that there shall be a like appeal as regards claims for exemptions in Ireland to the assistant barrister, chairman, or recorder (as the case may require) as is hereinbefore contained in reference to persons charged by an assessment and feeling aggrieved thereby.

The duties in respect of tithe commutation rentcharges may be assessed on the owners.

32. In assessing and charging the duties under Schedule (A.) of this Act in respect of lands, tenements, or hereditaments, subject to any rentcharge under the Act for the commutation of tithes in England or any other rentcharge in lieu of tithes, it shall be lawful for the Commissioners acting in the execution of this Act if they shall think fit, on a due return of such rentcharge being made by the owner thereof in order to an assessment upon him, to charge and assess such owner in the assessment for the said parish with the duty under Schedule (A.) of this Act in respect of such rentcharge, deducting therefrom the amount of the parochial rates, taxes, and assessments charged upon or in respect of such rentcharge in the preceding year; and in the case of such assessment being made upon the owner of the said rentcharge, the amount of such rentcharge shall be allowed as a deduction in the assessment of the lands, tenements, and hereditaments on which the same is charged under the said Act for the commutation of tithes.

Allowances to be made in respect of certain burdens on tithe rent-

33. And whereas tithe rentcharge belonging to or held by ecclesiastical persons or bodies in Ireland is liable, in many cases, to heavy charges in respect of the tax payable to the Ecclesiastical Commissioners for Ireland, poor rates, the repayment of instalments for the building or repairing of

[1] The sum is now 160*l.*: see the Finance Act, 1894, s. 34, p. 330.

charges in Ireland.

glebe houses, or other charges: And whereas the deductions in respect of income tax under the provisions of this Act or the before-recited Act of the fifth and sixth years of her Majesty's reign, chapter thirty-five, made by any person paying tithe rentcharge to any ecclesiastical person or body entitled to receive the same, would, under the provisions of this and the said Act, be the income tax upon the gross amount of such rentcharge; and it is expedient and just that such ecclesiastical persons or bodies should have the benefit of the allowances hereinafter mentioned out of such gross income, and of a proportionate remission of income tax: It shall be lawful for any ecclesiastical person or body to make application to the Commissioners for Special Purposes, setting forth the deductions or charges to which his income has been subjected during the preceding year in respect of the ecclesiastical tax aforesaid, poor rates, and the other charges and matters of the like nature and description as those in respect of which the Ecclesiastical Commissioners are directed to make allowances or deductions in estimating the value of a benefice or other ecclesiastical property with a view to its taxation, under the provisions of an Act passed in the third and fourth years of King William the Fourth, chapter thirty-seven; and such person or body, on proof to the satisfaction of the Commissioners for Special Purposes that the income of such ecclesiastical person or body has been actually subjected to such charges or deductions, shall be entitled to have repaid to him by the Commissioners of Inland Revenue the difference between the amount of income tax calculated on the gross income of such ecclesiastical person or body and the amount to which such person or body would have been liable supposing the income tax to have been assessed upon his income after deducting such charges as aforesaid.

As to deductions for the repairs of collegiate churches and chapels, chancels, &c.

34. Provided also, that the deduction allowed under Schedule (A.), No. V., of the said Act of the fifth and sixth years of her Majesty, chapter thirty-five, for the repairs of collegiate churches and chapels and chancels of churches, or of any college or hall in any of the universities, by any ecclesiastical or collegiate body, rector, vicar, or other person bound to repair the same, shall, in respect of the duties under Schedule (A.) of this Act, be the amount of the sum so expended in the year preceding that in which the assessment is made, instead of an average of twenty-one years, as in the said Schedule (A.), No. V., is mentioned.

Tenants of lands who are called upon to pay arrears due from former occupiers may deduct the amount from their rent.

35. Where any occupier for the time being of any lands, tenements, or hereditaments, being tenant thereof, shall be called upon and required to pay, and shall have paid, any sum or sums assessed upon or in respect of such lands, tenements, or hereditaments under the said Schedule (A.) of this Act, and which said sum or sums, or any portion thereof, ought, under the rules for charging the duties under the said schedule, to have been paid or to be paid by any former tenant or occupier of the same lands, tenements, or hereditaments, or his executors or administrators, it shall be lawful for the said occupier for the time being to deduct and retain, from and out of any subsequent payment of rent to his landlord, the said sum or sums of money, or any portion thereof, which ought to have been or to be paid by such former tenant or occupier, or his executors or administrators as aforesaid: Provided that nothing in the said Act of the fifth and sixth years of her Majesty, chapter thirty-five, or in this Act contained shall extend to authorize the levying upon any such occupier for the time being any arrear of duty assessed under Schedule (A.) or Schedule (B.) of this Act which ought to have been levied upon and ultimately paid and borne by any former

occupier of the same lands, tenements, or hereditaments; and provided also, that nothing herein contained shall be deemed or construed to alter, prejudice, or affect any remedy given by the said rules for the recovering and levying of any such sum or sums, or any portion thereof, from or upon such former tenant or occupier, or his executors or administrators.

Houses let in several tenements to be charged on landlords.

36. Any house or building let in different apartments or tenements, and occupied by two or more persons severally, shall nevertheless be charged to the duty under this Act as one entire house or tenement, and the assessment thereof shall be made on the landlord; but in default of payment by him the duty so charged and assessed may be levied on the occupier or occupiers respectively, and being paid by them or one of them shall be deducted and allowed out of the next or any subsequent payment on account of rent.

Deduction to be allowed under Schedule (A.) for the expenses of making and repairing sea walls and embankments.

37. In charging the duty under Schedule (A.) of this Act in respect of lands, an allowance and deduction shall be made for the amount expended by the landlord or owner thereof on an average of the twenty-one preceding years in the making or repairing of sea walls or other embankments necessary for the preservation or protection of such lands against the encroachment or overflowing of the sea or any tidal river, although the sums expended may not have been charged on such lands by any public rate or assessment.

Duties on tolls called customs levied in burghs in Scotland and expended for public purposes to be repaid.

38. Where in any burgh in Scotland tolls commonly known by the name of customs are levied under the authority of any Act of Parliament or charter, and are applied and expended in such burgh in or towards defraying the expenses of paving, lighting, or cleansing the same, or of the police thereof, or in or towards discharging any other similar public burdens, the duty which may have been assessed and paid under this Act upon or in respect of such tolls shall, so far as regards so much of the said tolls as shall have been so expended as aforesaid, on due proof of all the necessary facts to the satisfaction of the Commissioners for Special Purposes, be allowed and repaid under an order of the said Commissioners, in like manner as in other cases where duties are allowed and repaid under the provisions in that behalf contained in the said Act of the fifth and sixth years of her Majesty, chapter thirty-five.

Hop grounds to be charged under Schedule (B.) as other lands.

39. Provided also, that notwithstanding anything in the said Act of the fifth and sixth years of her Majesty, chapter thirty-five, contained, all lands occupied for the growth of hops shall be charged to the duties under Schedule (B.) of this Act according to the general rules contained in Schedule (B.) of the said first mentioned Act, and not by estimating the profits of such lands according to the rules contained in Schedule (D.) of the said Act.

Deductions of duty on payment of rent, interest, &c.

40. Every person who shall be liable to the payment of any rent, or any yearly interest of money, or any annuity or other annual payment, either as a charge on any property or as a personal debt or obligation by virtue of any contract, whether the same shall be received or payable half-yearly or at any shorter or more distant periods, shall be entitled and is hereby authorized, on making such payment, to deduct and retain thereout the amount of the rate of duty which at the time when such payment becomes due shall be payable [[1]under this Act, that is to say, seven-pence, six-pence, or five-pence, as the case may be], for every twenty shillings of such payment; and the person liable to such payment shall be acquitted and discharged of so much money as such deduction shall amount unto, as if the amount thereof had actually been paid unto the person to whom such payment shall have been due and

[1] The part in brackets is repealed by the Statute Law Revision Act, 1875 (38-9 V. c. 66).

payable; and the person to whom such payment as aforesaid is to be made shall allow such deduction upon the receipt of the residue of such money, under pain of forfeiting the sum of fifty pounds for any refusal so to do: Provided always, that no tenant or occupier of any property chargeable under Schedule (A.) of this Act shall be entitled to deduct or retain out of the rent thereof any greater sum than the amount of the duty which shall have been assessed and charged upon or in respect of such property, and actually paid by such tenant or occupier.

Deductions to be made from the net payment after allowing for poor rate in Ireland.

41. Provided always, that whenever any person liable to the said duties chargeable in Ireland under the said Schedule (A.) shall be entitled to retain a proportionate amount of such duties from any annual payment from which he is now by law entitled to deduct any sum on account of poor rates, he shall be entitled to retain such proportionate amount only upon the net sum payable by him after the allowance for poor rates.

Deduction of duty to be allowed on payment of rentcharges under the Drainage Advances Acts.

42. And whereas under certain Acts of Parliament advances of public money to promote the improvement of lands have been made by way of loan, and in Ireland under an Act passed in the tenth year of her Majesty, chapter ten, and any Acts amending the same, and under an Act passed in the fifth and sixth years of her Majesty, chapter eighty-nine, for river drainage, and any Acts amending the same, and the repayment thereof has been secured by a rentcharge upon such lands to be paid for a term limited by the said Acts respectively, and by which the principal sums advanced will eventually be repaid with interest thereon, and it is just that provision should be made for deducting and allowing the duty charged by this Act in proportion to such interest on the payment of such rentcharge: It shall be lawful for any person paying any such rentcharge from time to time to deduct and retain thereout in respect of the duty chargeable under this Act one-third part of the sum which the rate of such duty computed on such rentcharge will amount to and no more, and the collectors and receivers of such rentcharges are hereby required to allow such deduction upon receipt of the residue of such rentcharge then due.

No action of ejectment in Ireland to be defeated on ground of deductions reducing the amount due under a year's rent.

43. No action of ejectment for nonpayment of rent in Ireland shall be defeated on the ground that the person liable to pay such rent is entitled, under the provisions of this Act or any Act incorporated therewith, to a deduction which would reduce the amount due by him under a year's rent.

Occupiers of lands, &c. having made true returns of their annual value not required to make further returns for subsequent years.

44.[1] The occupiers of lands, tenements, and hereditaments who shall make true and correct statements and returns, as required by the said Acts, of the annual value of all such lands, tenements, and hereditaments in their respective occupations, in order to an assessment of the duties chargeable thereon, under the respective Schedules (A.) and (B.) of this Act, for the year commencing from the 5th day of April, 1853, shall not (unless they shall appeal against the continuance of the same assessment for any subsequent year) be required to make any further statements or returns of such annual value in respect of the same premises until the year 1857; and in like manner such occupiers as aforesaid who shall make true and correct statements and returns in order to an assessment of the said duties for the year commencing from the 5th day of April, 1857, shall not (unless they shall appeal against the continuance of such last-mentioned assessment) be required to make any further statements or returns in respect

[1] Sect. 44 is repealed by the Statute Law Revision Act, 1875 (38-9 V. c. 66).

of the same premises for any subsequent year of the period for which the said duties are by this Act granted.

Assessments under Schedules (A.) and (B.) to be continued in force for subsequent years.

45.[1] The assessments to be made for the year commencing from the 5th day of April, 1853, of the duties chargeable under the respective Schedules (A.) and (B.) of this Act shall be and remain in force, and the several sums charged and assessed therein shall be collected and levied also, for the second year for which the same duties are by this Act granted, without altering the names of the parties charged, notwithstanding any change in the occupation of the premises in respect of which any such assessment may be made; and the same assessments reduced and abated in proportion to the reduced duties which will then be chargeable under this Act shall in like manner be collected and levied for the third and fourth years respectively; and in like manner also the assessments to be made of the said duties for the year commencing from the fifth day of April, one thousand eight hundred and fifty-seven, shall be and remain in force, and the several sums charged and assessed therein for the said last-mentioned year shall also be collected and levied, for each and every remaining year of the period for which the said duties are by this Act granted: Provided always, that the continuance of any such assessment for the second or any subsequent year shall be subject to the conditions, rules, and regulations in that behalf contained in section eighty-seven of the said Act of the fifth and sixth years of her Majesty, chapter thirty-five, in relation to the continuance of assessments made under that Act.

Relief granted by 13 & 14 Vict. c. 12, s. 3, to persons occupying lands for the purposes of husbandry extended in the case of tenant farmers.

46.[2] The relief granted by the third section of the said Act of the thirteenth and fourteenth years of her Majesty, chapter twelve, to persons occupying lands for the purposes of husbandry only, and obtaining their livelihood principally from husbandry, shall be extended and granted to every person occupying lands as tenant thereof for the purposes of husbandry only, although he may not obtain his livelihood principally from husbandry, as well as to every person occupying lands for the purposes aforesaid, being the owner thereof, and obtaining his livelihood principally as aforesaid.

Appellants may require Commissioners to appoint a valuer to value lands.

47. Whereas by the eighty-first section of the said Act of the fifth and sixth years of her Majesty, chapter thirty-five, if upon appeal any dispute shall arise touching the annual value of any lands, tenements, or hereditaments, the Commissioners are authorized, if they deem it necessary, to direct that a valuation thereof shall be taken and made by a person of skill to be named by the said Commissioners: It shall be lawful for the appellant, as well as the said Commissioners, upon any such appeal, to require that such valuation as aforesaid shall be made, and the said Commissioners, on being required so to do by the appellant, as well as in cases where they may deem it necessary, shall name a person of skill to make such valuation; and upon such valuation being verified on the oath of the person making the same, the assessment shall be made according thereto.

Duty on professions to be charged on an average of the profits of three years.

48. The duty to be charged under Schedule (D.) in respect of professions, employments, or vocations not contained in any other schedule of this Act shall be computed on a sum not less than the full amount of the balance of the profits, gains, and emoluments of such professions, employments, or vocations upon a fair and just average of three years, instead of the amount of such profits, gains, and emoluments within the preceding year,

[1] Sect. 45 is repealed by the Statute Law Revision Act, 1875 (38-9 V. c. 66).
[2] Sect. 46 is repealed by the Finance Act, 1896 (59-60 V. c. 28).

as directed by the rules of Schedule (D.) in the said Act of the fifth and sixth years of her Majesty, chapter thirty-five, but subject in all other respects to the said last-mentioned rules.

Friendly Societies legally established entitled to exemption under both Schedule (C.) and Schedule (D.).

49. Any friendly society legally established under any Act of Parliament relating to friendly societies, and which does not assure or grant to any individual any sum or annuity to an amount which would debar such society from the benefit of the exemption granted to friendly societies by the said Act of the fifth and sixth years of her Majesty, chapter thirty-five, in respect of their stocks, dividends, and interests chargeable under Schedule (C.) of the said Act, shall be entitled to exemption under this Act, as well as in respect of all their interest and other profits and gains chargeable under Schedule (D.) as in respect of their stocks, dividends, and interest chargeable under Schedule (C.) of this Act.

In estimating profits under Schedule (D.) doubtful debts to be valued.

50. In ascertaining, estimating, or assessing the profits of any person chargeable under Schedule (D.) of this Act, either upon appeal or otherwise, it shall be lawful to estimate the value of all doubtful debts due or owing to such person; and in the case of the bankruptcy or insolvency of the debtor, the amount of the dividend which may reasonably be expected to be received on any such debt shall be deemed to be the value thereof, and the duty chargeable under the said schedule shall be assessed and charged upon the estimated value of all such doubtful debts accordingly.

Expenses necessarily incurred in the performance of the duties of a public office to be deducted from the amount of salary, &c. to be assessed.

51. In assessing the duty chargeable under Schedule (E.) of this Act in respect of any public office or employment where the person exercising the same is necessarily obliged to incur and defray out of the salary, fees, or emoluments of such office or employment the expenses of travelling in the performance of the duties thereof, or of keeping and maintaining a horse to enable him to perform the same, or otherwise to lay out and expend money, wholly, exclusively, and necessarily in the performance of the duties of his office or employment, it shall be lawful to deduct from the amount of the said salary, fees, and emoluments to be assessed under this Act the amount of all such expenses and disbursements necessarily incurred and defrayed in manner aforesaid.

Abatement of duty to be made to clergymen for expenses incurred in performance of their duties.

52. In assessing the duty chargeable under any Schedule of this Act upon any clergyman or minister of any religious denomination in respect of any profits, fees, or emoluments of his profession or vocation, it shall be lawful to deduct from such profits, fees, or emoluments any sum or sums of money paid or expenses incurred by him wholly, exclusively, and necessarily in the performance of his duty or function as such clergyman or minister; and if such sum or sums or expenses shall not have been deducted as aforesaid, then a proportionate part of the duty charged and paid by such clergyman or minister shall, on due proof to the Commissioners of such sum or sums having been expended as aforesaid, be repaid to such clergyman or minister.

Public officers becoming entitled to increased salaries, &c. to be charged for the same by supplemental assessment.

53. Where any person who shall hold or exercise any public office or employment of profit shall at any time or times during or for or in respect of any year of assessment become entitled to any additional salary, fees, or emoluments beyond the amount for which any assessment may have been made upon him, or beyond the amount for which at the commencement of such year he may have been liable to be assessed, an additional or supplemental assessment shall from time to time, as often as the case shall require, be made upon such person for such additional salary, fees, or emoluments, so that he shall be assessed and charged for the full amount of the whole of the salary, fees, and emoluments which he shall receive or become entitled to

at any time, and from time to time during or for or in respect of the said year of assessment.

Persons who have made insurance or contracted for a deferred annuity on the lives of themselves or wives to be allowed an abatement of duty in respect of the annual premiums made.

54. Any person who shall have made insurance on his life or on the life of his wife, or shall have contracted for any deferred annuity on his own life or on the life of his wife, in or with any insurance company which shall become registered under any Act to be passed in the present session of Parliament for that purpose, and which shall comply with the requirements of such Act, and any person who shall under any Act of Parliament be liable to the payment of an annual sum, or to have an annual sum deducted from his salary or stipend, in order to secure a deferred annuity to his widow or a provision to his children after his death, shall be entitled to deduct the amount of the annual premium paid by him for such insurance or contract, or the annual sum paid by him or deducted from his salary or stipend as aforesaid, from any profits or gains in respect of which he shall be liable to be assessed under either of the Schedules (D.) or (E.) of this Act, or to have any assessment which may be made upon him under either of the said Schedules reduced or abated by the deduction of the amount of the said annual premium from the amount of the profits or gains on which such assessment has been made; or if such person shall be assessed to duties under any of the Schedules contained in this Act, and shall have paid such assessment, or shall have paid or been charged with any of the said duties by deduction or otherwise, such person, on claim made to the Commissioners for Special Purposes, and on production to them of the receipt for such annual payment, and on proof of the facts to the satisfaction of the said Commissioners, shall be entitled to have repaid to him such proportion of the said duties paid by such person as the amount of the said annual premium bears to the whole amount of his profits and gains on which he shall be chargeable under all or any of the Schedules of this Act: Provided always, that no such abatement, allowance, or repayment as aforesaid shall be made in respect of any such annual premium beyond one-sixth part of the whole amount of the profits and gains of such person so chargeable as aforesaid, nor shall any such deduction or abatement entitle any such person to claim total exemption or any relief from duty on the ground of his profits and gains being thereby reduced below one hundred or one hundred and fifty pounds, as the case may be.

Persons who have removed before appealing may be allowed to appeal to the Commissioners of the district to which they have removed.

55. Where any person assessed or charged to any of the duties under this Act shall have removed from the district within which the assessment or charge upon him was made without having appealed against such assessment or charge in such district, it shall be lawful for the Commissioners of Inland Revenue, if they shall think fit, on the application of such person, to authorize and empower the Commissioners of the district to which such person shall have removed as aforesaid to hear and determine his appeal against such assessment or charge, and in every such case the said last-mentioned Commissioners shall have full power and authority and they are hereby required to hear and determine such appeal accordingly, and any sum or sums from which such person may not be relieved on such appeal shall be recovered and levied in the same manner as if such appeal had been heard and determined by the Commissioners of the district in which such assessment or charge was made.

Penalty for inducing persons to make false

56. If any person shall knowingly and wilfully aid, abet, or assist, or incite or induce, any other person to make or deliver any false or fraudulent account, statement, or declaration of or concerning any profits or gains

returns of profits or of the value of lands.

chargeable under this Act, or of the yearly rent or value of any lands, tenements, or hereditaments, or of any matters or things affecting such rent or value, such person so offending shall for every such offence forfeit the sum of fifty pounds.

Allowances to clerks to Commissioners.

57.[1] In lieu of the allowances by the said Act of the fifth and sixth years of her present Majesty directed to be granted to the clerk of the respective Commissioners for the due performance of the duties of his office, there shall be granted the following allowances respectively; (that is to say,) the clerk of the respective Commissioners who shall duly perform the duties of his office within the respective times limited by law in that behalf, and shall have borne and sustained the incidental expenses mentioned in the said Act, shall, by warrant under the hands of the said Commissioners, have and receive from the respective officers for receipt twopence in the pound on the net amount of the sums assessed and charged in the duplicates of assessment, after all appeals heard and determined, and all just reductions, abatements, and discharges made from such assessments and duplicates respectively; and the clerk who shall not have borne and sustained such incidental expenses shall by like warrant have and receive one penny in the pound of such net amount of the sums assessed and charged as aforesaid, after all such reductions, abatements, and discharges as aforesaid, provided he shall have duly performed the duties of his office in the manner mentioned in the said Act, and not otherwise: Provided always, that it shall be lawful for the Commissioners of her Majesty's Treasury to cause such further allowance to be made to such clerk as aforesaid, who shall have faithfully performed his duty under this Act, and shall have borne and sustained such incidental expenses as aforesaid, of any sum not exceeding one penny in the pound on the amount of such part of the gross assessment as shall have been discharged on occasion of claims for exemption or abatement made or allowed under this Act on the ground of income being below one hundred and fifty pounds and one hundred pounds a year respectively, as the said last-mentioned Commissioners shall, on consideration of the extent and population of the district and the number of such claims, think proper to direct; and the certificate of the Commissioners of Inland Revenue shall be an authority to the officers for receipt respectively to pay such further allowance.

Collectors in Ireland to have such poundage or other remuneration as the Treasury may order.

58. The several collectors of the duties granted by this Act in Ireland shall have and receive such rate of poundage on the money of the said duties which they shall respectively collect and pay to the proper officer for receipt, or such other reasonable remuneration for their service, pains, and labour respectively in executing this Act, as the [[2]Commissioners of her Majesty's] Treasury shall by any warrant from time to time order and direct in that behalf.

Commencement and continuance of the Act.

59.[3] This Act shall commence and take effect from and after the 5th day of April, 1853, and together with the duties therein contained shall continue in force until the 6th day of April, 1860, and no longer: Provided always, that this Act and the said duties shall not then cease with respect to any assessment which ought to have been made before the said last-mentioned

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[1] Sect. 57 is repealed by the Statute Law Revision Act, 1875 (38-9 V. c. 66).
[2] The part in brackets is repealed by the Statute Law Revision Act, 1892 (55-6 V. c. 19).
[3] Sect. 59 is repealed by the Statute Law Revision Act, 1875 (38-9 V. c. 66).

day, but which shall not then have been made and completed, nor with respect to any of the said duties which shall have been assessed and shall then remain unpaid, nor with respect to any penalty before then incurred, nor with respect to any deduction of the said duties or any portion thereof authorized by law to be made out of any rent, interest, or other annual payment which shall become due or payable before the said last-mentioned day, nor with respect to any penalty for refusing to allow any such deduction, although such refusal may be after the said last-mentioned day, nor shall the said duties cease in any case where the assessments for the preceding year shall not have been completed before the said 6th day of April, 1860, but all the powers and provisions of this Act shall continue in force for making and completing all such assessments as aforesaid, and for levying and recovering the duties so assessed or to be assessed, and all arrears of such duties, and also for re-assessing the same in default of payment in the manner herein directed, and for making and allowing such deduction as aforesaid, and for the suing for, adjudging, and recovering any penalty which shall have been or may be incurred.

Appendix VII.

TAXES MANAGEMENT ACT, 1880.

(43 & 44 Vict. c. 19.)

SCHEDULES.

Sections 5, 41, 47, 80.

THE FIRST SCHEDULE.[1]

ALLOWANCES AND REMUNERATION.

The following allowances and remuneration shall be paid :—

1. To clerks to Commissioners of Income Tax and Inhabited House Duties—

For the careful writing and transcribing all the assessments, duplicates, warrants, certificates, and estreats in due time, and for the due executing all things directed to be done by or under the General Commissioners and the Additional Commissioners, the clerk who shall do the same within the respective times limited by law in that behalf, shall, by warrant under the hands of the General Commissioners of each district respectively, receive from the Board the under-mentioned allowances, viz. : —

(a) As regards the income tax, the clerk having borne and sustained all incidental expenses attending the execution of the Income Tax Acts shall have twopence in the pound on so much of the net amount of the sums assessed and charged in the duplicates of assessment for the year after all appeals heard and determined, and all just reductions, abatements, and discharges made from such assessments and duplicates respectively as will give to such clerk an allowance not exceeding five hundred pounds for any one year, and at the rate of one penny in the pound on the remainder (if any) of the said net amount :

(b) As regards the duties on inhabited houses, if the total amount of such allowance for one year, calculated at the rate of one penny farthing in the pound, on the moneys assessed in that year, and paid over to the collector of inland revenue, shall amount to one hundred pounds or upwards, then such clerk shall not be entitled to receive any further or greater allowance than at the rate of one penny

[1] The First Schedule is repealed by the Statute Law Revision Act, 1894 (57-8 V. c. 56).

farthing in the pound of the said moneys so paid; but if the total amount of the moneys of the said duties received by such collector of inland revenue for one year in any district of Commissioners shall exceed ninety-six thousand pounds, then the clerk of such district shall have an allowance at the rate of one penny farthing in respect of every pound of the said ninety-six thousand pounds, part thereof, and a further allowance at the rate of one half of one penny farthing for every pound of the said moneys exceeding ninety six thousand pounds, and if the total amount of such allowance, calculated at the rate of one penny farthing in the pound on the said moneys, shall not amount to one hundred pounds, then such clerk shall be entitled to receive an allowance at the rate of three halfpence in the pound of the moneys so paid, so as that the allowance, calculated as last aforesaid, shall in no case be granted to any greater amount than one hundred pounds per annum.

But the Treasury may—

(i.) Cause a further allowance to be made to any such clerk of any sum not exceeding one penny in the pound on the amount of such part of the gross assessment as shall have been discharged on occasion of claims for exemption or abatement made or allowed under the Income Tax Acts:

(ii.) Direct the allowance and discharge of such actual expenses, or any part thereof, as shall be necessarily incurred by any clerk in the due execution of the Acts relating to the land tax and inhabited house duties where such allowance shall appear to the Board reasonable and proper to be made over and above the allowance by poundage made to any such clerk for the particular year of assessment to which such expenses shall relate:

(iii.) Where the allowances to which any clerk is entitled by virtue of this Act, together with the allowance to which he is entitled by virtue of the Land Tax Acts, if he be also clerk to the Land Tax Commissioners, would exceed the sum of twelve hundred pounds, substitute for those allowances an amount not being less than the sum of twelve hundred pounds, exclusive of necessary office expenses, and the clerk shall be entitled to claim and receive in respect of such allowances such sum only as shall be specified in a certificate of the Board.

2. To assessors of income tax and inhabited house duties:

(a) The assessor shall have an allowance of one penny halfpenny per pound for what money of the duties shall be paid over by the collector to the collector of inland revenue—

(i.) In respect of any assessment of the inhabited house duties, and of the duties under Schedules (A.), (B.), and (E.) of the Income Tax Acts made by every such assessor and allowed by the General Commissioners; and also

(ii.) In respect of any assessment under Schedule (D.) of the Income Tax Acts made by the Additional Commissioners and allowed by the General Commissioners

for the particular parish or part of the parish for which such assessor may be appointed and shall act:

(b) A surveyor acting as assessor shall not be entitled to any allowance in respect thereof over and above such allowance as he may receive under the authority of the Treasury as surveyor.

3. To collectors of income tax and inhabited house duties (England):

(a) Each collector shall have an allowance of one penny halfpenny per pound for what money of the duties he shall pay to the collector of inland revenue.

(b) The Board may, with the assent of the Treasury, grant to any collector such further allowance as they may deem necessary.

Sections 5, 15.

THE SECOND SCHEDULE.

FORMS.

[NOTE.—These forms may be varied by the Board for use in regard to any of the duties or the land tax, where applicable, or other forms prescribed for such purposes.]

1.—ASSESSORS' CERTIFICATE OF ASSESSMENTS.

County of , district of .

ASSESSMENTS of the duties under the respective Schedules (A.) and (B.) of the Act 16 & 17 Vict. c. 34, and of the duties on inhabited houses under the Act 14 & 15 Vict. c. 36, made upon the several persons chargeable with the said duties within the* of in the said district, for the year ending the 5th day of April, 18 , pursuant to the Acts of Parliament relating to the said duties, duly certified upon [oath *or* affirmation, *as the case may be*], by the assessors, and allowed according to the directions of the said Acts by the Commissioners, whose names are signed at the end hereof.

[*Here follow particulars of assessment in such tabular form as the Board shall prescribe.*]

We, the undersigned assessors of the duties on profits arising from property, professions, trades, and offices, and of the duties on inhabited dwelling-houses for the* of aforesaid, for the year ending the 5th day of April, 18 , do hereby certify the foregoing assessments of the duties payable under the respective Schedules (A.) and (B.) of the Act 16 & 17 Vict. c. 34, and under the Act 14 & 15 Vict. c. 36, for the aforesaid, and we do make [oath *or* affirmation, *as the case may be*], and declare that in the foregoing assessments *we have charged and assessed ourselves, and all other persons who are chargeable with the said duties, or either of them, within the said , and that we have made our said assessments conformably to the provisions of the laws now in force*, according to the best of our knowledge and belief.

As witness our hands this day of in the year of our Lord 18 .

} *Assessors.*

NOTE.—This certificate must be signed by both assessors.

We, the undersigned Commissioners of the Income Tax and Inhabited House Duties acting in and for the district of aforesaid, do hereby, in

pursuance of the Acts of Parliament relating to the duties on profits arising from the said tax and duties respectively, sign and allow the foregoing assessments, the same having been duly verified before us by the above-named assessors, as directed by the Acts of Parliament in that behalf made.

Given under our hands and seals at , within the said district, this day of , in the year of our Lord 18 .

Commissioners of the Income Tax and Inhabited House Duties.

* NOTE.—Where parishes or places have been united for tax purposes all the names should be inserted and described as the "united parishes or places of."

2.—COMMISSIONERS' CERTIFICATE OF FIRST ASSESSMENTS.

Under Schedule (D.).

County of , district of .

ASSESSMENTS of the duties, under Schedule (D.) of the Act 16 & 17 Vict. c. 34, made upon the several persons, corporations, companies, and societies chargeable with the said duties within the* of , in the said district, for the year ending the 5th day of April, 18 , pursuant to the Acts of Parliament relating to the said duties, by the Commissioners whose names are signed at the end hereof.

[*Here follow particulars of assessment in such tabular form as the Board shall prescribe.*]

We, the undersigned Additional Commissioners of the Income Tax acting in and for the district of aforesaid, do hereby, in pursuance of the Acts relating to the duties on profits arising from property, professions, trades, and offices, certify the foregoing first assessments of the duties payable under Schedule (D.) of the Act 16 & 17 Vict. c. 34, for the* , of aforesaid, amounting to the sum of .

Given under our hands and seals at , within the said district, this day of , in the year of our Lord 18 .

Additional Commissioners of the Income Tax.

The foregoing certificate of assessments having been presented to us, the undersigned Commissioners of the Income Tax acting in and for the district of aforesaid, and all appeals against the same having been heard and determined, we do hereby allow and confirm the said assessments.

Given under our hands and seals at , within the said district, this day of , in the year of our Lord 18 .

Commissioners of the Income Tax.

* NOTE.—Where parishes or places have been united for tax purposes all the names should be inserted and described as the "united parishes or places of."

3.—Assessors' Certificate of Re-Assessment.

County of , district of .

A re-assessment of the duties chargeable under the respective Schedules (A.) and (B.) of the Act 16 & 17 Vict. c. 34, for granting to her Majesty duties on profits arising from property, professions, trades, and offices, and of the duties in respect of inhabited dwelling-houses, chargeable under the Act 14 & 15 Vict. c. 36, made upon the several persons chargeable with the said duties within the of in the said district, pursuant to the several Acts of Parliament in that behalf, for raising the sum of , being the amount of an arrear of the said duties which has arisen within the said for the year ending the 5th day of April, 18 , by the default of , collector of the said duties for the said for the said year ending as aforesaid, duly verified upon [oath *or* affirmation, *as the case may be*,] by the assessors, and allowed, according to the directions of the said Acts of Parliament, by the Commissioners of the Income Tax and Inhabited House Duties acting for the said district, whose names are signed at the end hereof.

[*Here follow particulars of re-assessment in such tabular form as the Board shall prescribe.*]

We, the undersigned assessors appointed for making the foregoing re-assessment of the duties chargeable under the respective Schedules (A.) and (B.) of the Act 16 & 17 Vict. c. 34, and of the duties upon inhabited dwelling-houses, chargeable under the Act 14 & 15 Vict. c. 36, for the of aforesaid, do hereby certify the foregoing re-assessment of the said duties, and do make [oath *or* affirmation, *as the case may be*,] and declare that we have charged and assessed ourselves and all other persons who are chargeable with the said re-assessment, and that we have made our re-assessment conformably to the provisions of the laws now in force, according to the best of our knowledge and belief.

Witness our hands this day of in the year of our Lord 18 .

} *Assessors.*

We, the undersigned Commissioners of the Income Tax and Inhabited House Duties acting in and for the district of aforesaid, do hereby sign and allow the foregoing re-assessment of the duties chargeable under the respective Schedules (A.) and (B.) of the Act 16 & 17 Vict. c. 34, and in respect of inhabited dwelling-houses, under the Act 14 & 15 Vict. c. 36, amounting to the sum of , the same having been duly verified before us by the above-named assessors.

Given under our hands and seals at , within the said district, this day of in the year of our Lord 18 .

} *Commissioners of the Income Tax and Inhabited House Duties.*

4.—COMMISSIONERS' CERTIFICATE OF RE-ASSESSMENT. (SCHEDULE (D.).)

County of , district of .

A RE-ASSESSMENT of the duties chargeable under the Schedule (D.) of the Act 16 & 17 Vict. c. 34, for granting to her Majesty duties on profits arising from property, professions, trades, and offices made upon the several persons chargeable with the said duties within the of in the said district, pursuant to the several Acts of Parliament in that behalf, for raising the sum of , being the amount of an arrear of the said duties which has arisen within the said for the year ending the 5th day of April, 18 , by default of , collector of the said duties for the said for the said year ending as aforesaid.

[*Here follow particulars of re-assessment in such tabular form as the Board shall prescribe.*]

We, the undersigned Additional Commissioners of the Income Tax acting in and for the district of aforesaid, do hereby certify the foregoing re-assessment of the duties chargeable under Schedule (D.) of the Act 16 & 17 Vict. c. 34.

Given under our hands and seals at , within the said district, this day of in the year of our Lord 18 .

} *Additional Commissioners of the Income Tax.*

We, the undersigned Commissioners of the Income Tax acting in and for the district of aforesaid, do hereby allow and confirm the foregoing re-assessment of the duties chargeable under the Schedule (D.) of the Act 16 & 17 Vict. c. 34, amounting to the sum of , all appeals against the same having been heard and determined.

Given under our hands and seals at , within the said district, this day of in the year of our Lord 18 .

} *Commissioners of the Income Tax.*

5.—COLLECTORS' DUPLICATE OF [*first, additional first, or supplementary, as the case may require*] ASSESSMENTS.

[For the year 18 .]

County of , district of .

A DUPLICATE of the assessments of the duties under the respective Schedules (A.) and (B.) [*or* (D.) and (E.) *as the case may require*] of the Act 16 & 17 Vict. c. 34, and of the duties on inhabited houses, under the Act 14 & 15 Vict. c. 36, made upon the several persons chargeable with the said duties within the* of in the said district, for the year ending the 5th day of April, 18 , pursuant to the Acts of Parliament relating to the said duties.

[*Here follow particulars of assessment in such tabular form as the Board shall prescribe.*]

We, the undersigned Commissioners of the Income Tax and Inhabited House Duties acting in and for the district of aforesaid, do hereby sign and allow the foregoing duplicate of the assessments of the duties payable under the respective Schedules (A.) [*or* (D.) and (E.) *as the case may require*]

and (B.) of the Act 16 & 17 Vict. c. 34, and of the duties on inhabited houses, under the Act 14 & 15 Vict. c. 36, amounting in the whole to the sum of .

Given under our hands and seals at , within the said district, this day of in the year of our Lord 18 .

Commissioners of the Income Tax and Inhabited House Duties.

* Where parishes or places have been united for tax purposes all the names should be inserted and described as the "united parishes or places of."

COLLECTORS' WARRANT.*

To and of in the district of in the county of .

WHEREAS you, the above-named and , were on the day last duly nominated and appointed by the Commissioners of the Income Tax and Inhabited House Duties acting in and for the district aforesaid, in the county aforesaid, to be collectors of the duties on profits arising from property, professions, trades, and offices, and of the duties on inhabited houses [*or as the case may be*], for the† of in the said district, for the year ending the 5th day of April, 18 .

And whereas, by virtue and in pursuance of the powers and authorities of the several Acts of Parliament relating to the said duties, we, the said Commissioners, have signed and allowed the (foregoing) duplicate of the assessments of the said duties, chargeable under the respective Schedules (A.) and (B.) [*or* (D.) and (E.) *as the case may require*] of the Act 16 & 17 Vict. c. 34, and of the duties on inhabited houses, under the Act 14 & 15 Vict. c. 36, and charged upon the several persons mentioned in the foregoing duplicate within the aforesaid, for the year ending the 5th day of April, 18 .

Now we, the said Commissioners, do hereby enjoin and require you, the above-named collectors, or either of you, to make demand of the several sums contained in the foregoing duplicate from the parties charged therewith, or at the places of their last abode, or on the premises charged with the assessment, as the case may require, within the time and in the manner appointed and directed by the said Acts; and upon payment thereof to give acquittances under your hands (without taking anything for such acquittances) unto the several persons who shall pay the same; and if any person or persons shall refuse to pay the sum or sums charged upon him, her, or them, upon demand duly made by you, or either of you, then we do hereby enjoin and strictly require you, or either of you, for non-payment thereof, to distrain for the same according to the directions of the said Acts, by virtue of this our warrant without further authority.

Given under our hands and seals at , within the said district, this day of in the year of our Lord 18 .

Commissioners of the Income Tax and Inhabited House Duties.

* This warrant may be printed on the duplicate or be a separate document.

† Where parishes or places have been united for tax purposes all the names should be inserted and described as the "united parishes or places of."

6.—Appointment of Assessors for making Re-assessment of Income Tax.

To and , assessors of the duties on profits arising from property, professions, trades, and offices for the of , in the district of , in the county of .

Whereas an arrear of the duties chargeable under the Schedule of the Act 16 & 17 Vict. c. 34, for granting to her Majesty duties on profits arising from property, professions, trades, and offices, for the year ending the 5th day of April, 18 , amounting to the sum of has arisen in the of aforesaid, by the default of , collector of the said duties for the said we, the undersigned, being Commissioners of the Income Tax acting in and for the said district, do hereby, by virtue of the Acts of Parliament enabling us in this behalf, appoint you the above-named and assessors for making a re-assessment within and upon the said for raising the said arrear; and we do hereby strictly enjoin and require you and each of you to make a re-assessment within and upon the said by charging the said sum of on the amount of the assessment for the said made for the said duties for the year ending the 5th day of April, 18 , by duly apportioning the amount of such arrear amongst the several persons assessed in the said last-mentioned assessment to the same duties respectively, according to each person's assessment thereof, as nearly as the case will admit; and in making the said re-assessment you are to pursue the like methods, rules, and directions by which the original assessment was made of the same duties. Hereof you will not fail as you and each of you will answer the contrary at your peril.

Given under our hands and seals at , within the said district, this day of in the year of our Lord 18 .

} *Commissioners of the Income Tax.*

7.—Collectors' Warrant, which may be issued during the period the Schedules of Defaulters remain with the Commissioners.

To and collectors of the duties hereinafter mentioned for the of , in the district of , in the county of .

Whereas the Commissioners of the Income Tax acting in and for the before-mentioned district have made and executed the several assessments of the duties on profits arising from property, professions, trades, and offices, for the year ending the 5th day of April, 18 , upon the several persons chargeable with the said duties within the aforesaid, and duplicates of the same have been delivered to you, the above-named collectors of the said duties: And whereas the said Commissioners have received, in pursuance of the Acts of Parliament in that behalf, a certain Schedule in writing, signed and duly sworn to by you the said collectors, whereby the several persons therein named are returned as defaulters, for that the several sums assessed upon them and therein contained have been demanded from and are due and wholly unpaid from the respective persons charged therewith: Now we, the undersigned Commissioners of the Income Tax acting in and for the district

aforesaid, do hereby enjoin and require you, or either of you, the above-named collectors, to make demand of the several sums mentioned in the said Schedule, and contained in the said assessments, from the parties charged therewith, or at the places of their last abode, or on the premises charged with the assessment, as the case may require, and upon payment thereof to give acquittances under your hands unto the several persons who shall pay the same; and if any person or persons shall refuse to pay the sum and sums charged upon him, her, or them, upon demand duly made by you, or either of you, then we hereby enjoin and strictly require you, or either of you, for non-payment thereof, to distrain for the same, according to the directions of the said Acts, by virtue of this our warrant, and that you return to us the amount and particulars of the several sums received by you on the day of now next, at the usual place of meeting, namely, at , in the said district.

Given under our hands and seals at , in the said district, the day of in the year of our Lord 18 .

} *Commissioners of the Income Tax.*

8.—Certificate of Removal.

To the Commissioners of the Income Tax and Inhabited House Duties acting within and for the district of , in the county of .

We, the undersigned Commissioners of the Income Tax and Inhabited House Duties acting within and for the district of in the county of , do hereby certify that in and by the* assessments of the duties payable under the Schedule of the Act 16 & 17 Vict. c. 34, and under the Act 14 & 15 Vict. c. 36, respectively, and subsequent Acts, for the of in the said district, for the year ending the 5th day of April, 18 , now residing in the of , in the district of , in the county of , hath been duly charged and assessed for the undermentioned duties; (that is to say,)

N.B.†	Income Tax. £	s.	d.	Inhabited House Duties. £	s.	d.	‡
Total - £							

And we do further certify that the said hath left unpaid the sum of in respect of the income tax, and the sum of in respect of the inhabited house duties so charged and

assessed as aforesaid, which became due and payable on the 1st day of January in the year of our Lord 18 , and the said sum now in arrear.

And we, the undersigned Commissioners, do request you, the said Commissioners of the Income Tax and Inhabited House Duties acting within and for the district of aforesaid, to raise and levy the said sum of and so charged and assessed upon the said and now in arrear as aforesaid, and to cause the same to be paid and applied according to the directions of the several Acts of Parliament for raising the said duties.

Given under our hands and seals at , the said district of , this day of in the year of our Lord 18 .

Commissioners of the Income Tax and Inhabited House Duties.

* First, additional first, or supplementary, as the case may be.

† Here specify the "particulars of the assessment," viz., the Schedule under which the duty is charged—description of *property, profits, or sources of income*, to which the assessment applies, and whether on own return or estimate. If the arrear be under Schedule A., the *name and address of the owner* of the premises should be stated, and if the assessment be in respect of a house in the metropolis or a large town, the certificate should set forth *the street and number of the house.*

‡ State whether the amount is included in Commissioners' schedule of defaulters.

To and collectors of the duties on profits arising from property, professions, trades, and offices, and of inhabited house duties, for the of , in the district of , in the county of .

We, the undersigned Commissioners of the Income Tax and Inhabited House Duties acting within and for the district of aforesaid, do hereby authorize and require you, the above-named collectors, or either of you, to make due demand of and from , the person named in the foregoing certificate, of payment of the sum of , in respect of the duties charged and assessed upon him, as in the said certificate is mentioned, and if he shall refuse or neglect to pay the same upon such demand being made, then we hereby empower and require you, or either of you, to distrain for the same, according to the directions of the statute in that behalf, by virtue of this our warrant, without further authority; and upon receipt of the said sum of money, or any part thereof, we hereby direct and enjoin you to pay over the same to the collector of Inland Revenue for the county of , to the account of , the collectors of the said duties for the of , for which this shall be your sufficient authority.

Given under our hands and seals at , in the said district of , this day of in the year of our Lord 18 .

Commissioners of the Income Tax and Inhabited House Duties.

N.B.—As the collector of the parish or place where the duties herein certified are assessed and due has not collected the same, and as, therefore, he is not entitled to any poundage thereon, the collector of any other parish or place who shall collect the said duties, will, on payment thereof to the receiving officer, be allowed the poundage to which the first-mentioned collector would have been entitled if the duties had been collected by him.

9.—Warrant to break open.

To and , collectors of the duties hereinafter mentioned for the of in the district of , in the county of .

Whereas in and by the assessments of the duties of income tax and the duties on inhabited houses for the aforesaid for the year ending the 5th day of April, 18 , of hath been duly charged to the said duties in the sum of .

And whereas it appears by the oath of , collector of the said duties appointed for the said taken before us, whose hands and seals are hereunto subscribed and set, being two of the Commissioners of the Income Tax and Inhabited House Duties acting in and for the district aforesaid, that the said sum of hath been duly demanded of the said and that he hath refused and neglected to pay the same, and that the same now remains due and unpaid:

And whereas it further appears by the oath aforesaid that divers goods and chattels, liable by law to be distrained for the said duties, are lying and being in a certain house, situate in the of in the district and county aforesaid, now in the possession of .

These are therefore to authorize and require you, the above-named collectors, and either of you, calling to your assistance the constable or other peace officer within and for the of aforesaid, and in the presence of the said constable, or other peace officer, to demand entrance into the said house, and in case of resistance, or neglect or refusal to open the same, to break open in the day time the said house, and enter the same, and to distrain therein the said goods and chattels, and the distress there found to keep by the space of five days, at the costs and charges of the said , and if the whole of the said sum of , together with the said costs and charges, be not paid within the said five days, then the said distress, having been first duly valued and appraised by two of the inhabitants of the said of , or other sufficient persons, to be sold by you, and the overplus, if any, of the moneys arising by such sale, after paying and deducting the said sum of and all costs and charges of taking, keeping, and selling the said distress, to be restored to the owner thereof.

Given under our hands and seals at , within the said district, this day of in the year of our Lord 18 .

Commissioners of the Income Tax and Inhabited House Duties.

10.—Warrant of Commitment.

To and , collectors of the duties hereinafter mentioned for the , of in the district of , in the county of , and to the keeper of her Majesty's prison at .

Whereas in and by the , assessments of the duties payable under the Schedule of the Act 16 & 17 Vict. c. 34, for the , of , in the district of , in the county of , for the year ending the 5th day of April, 18 , of , hath been duly charged and assessed to the said duties in the sum of .

And whereas it appears by the oath of , collector of the said duties appointed for the said , of , taken before us, whose hands and seals are hereunto subscribed and set, being two of the Commissioners of the Income Tax acting in and for the district of aforesaid, that the said sum of , as and for the duties so charged and assessed as aforesaid, hath been duly demanded of the said and that he hath refused and neglected to pay the sum of part of the said sum of , by the space of ten days after such demand as aforesaid; and it further appears by the oath aforesaid that the said sum of , for the duties charged and assessed as aforesaid, now remains due and unpaid, and that no sufficient distress can or may be found whereby the same may be levied.

Now, therefore, we, the said Commissioners, whose hands and seals are hereunto subscribed and set, do hereby command you, the above-named collectors of the said duties, or either of you, to apprehend the said , and to take him to her Majesty's prison at , in the said county, and to deliver him to the keeper thereof, together with this warrant; and we do hereby command you, the said keeper, to receive him, the said , into your custody in the said prison, there to be kept without bail until payment shall be made or security to our satisfaction be given for payment of the said sum of , remaining due and unpaid as aforesaid, and also of the further sum of which we, the said Commissioners, do adjudge to be reasonable for the costs and expenses of apprehending the said and conveying him to prison.

Given under our hands and seals at , within the said district, the day of in the year of our Lord 18 .

} *Commissioners of the Income Tax.*

11.—Revocation of Collector's Appointment.

To , one of the inhabitants of the of , in the district of , in the county of .

Whereas by virtue and in pursuance of the powers and authorities of the several Acts of Parliament relating to the duties on profits arising from property, professions, trades, and offices, and inhabited houses, two of the Commissioners acting in the execution of the said Acts in and for the district aforesaid, did, by their precept, bearing date the day of , 18 , nominate and appoint and to be collectors of the said duties for the aforesaid, for the year ending the fifth day of April, 18 : And whereas wilful delay and failure hath happened in demanding, receiving, and recovering and paying divers sums of money and duties charged and assessed on the several persons chargeable with the said sums of money and duties, within the said for the year aforesaid, through the default and neglect of the said , one of the collectors of the said duties.

Now we, the undersigned, two of the said Commissioners, do, by virtue and in pursuance of the powers and authorities given by the Acts of Parliament in this behalf, hereby revoke the appointment of the said as such collector as aforesaid; and we do by this, our precept, nominate and appoint you, the above-named , in the place and stead of the said to be collector of the duties and sums of money remaining due and

in arrear and uncollected on the duplicates of assessments herewith delivered to you, for the said year ending the 5th day of April, 18 , with full power to collect all arrears and sums of money which are now due and unreceived from the parties charged therewith by the said assessments. And we do hereby enjoin and require you immediately to make demand of the several sums contained in the said duplicates from the parties charged therewith, or at the places of their last abode, or on the premises charged with the assessment, as the case may require; and upon payment thereof to give acquittances unto the several persons who shall pay the same; and if any person or persons from whom any of the said duties, or sums of money, or any part thereof, now remain due or unpaid shall refuse to pay the sum and sums charged upon and due and owing from him, her, or them, upon demand made by you, then we hereby enjoin and strictly require you for non-payment thereof, to distrain for the same, according to the directions of the said Acts by virtue of this our warrant without further authority.

Given under our hands and seals at , within the said district, the day of , in the year of our Lord 18 .

Commissioners of the Income Tax and Inhabited House Duties.

12.—Warrant to Imprison Person and seize Estate of Defaulting Collector.

To , constable of , in the county of , and to , keeper of her Majesty's prison at , in the said county.

Whereas it appears to us and , whose hands and seals are hereunto subscribed and set, being two of the Commissioners of the Income Tax and the Inhabited House Duties acting for the district of , in the county of , upon the oath of and other sufficient evidence, that , of , a collector of the duties of income tax and the duties in respect of inhabited houses for the of , in the said district, hath, as such collector, collected and received from divers persons within the said the sum of , in respect of the said duties, and that the said hath neglected to pay the said sum of money according to the directions of the several Acts of Parliament in that behalf, and that he hath detained and doth now detain the same in his hands.

Now, therefore, we, the said Commissioners whose hands and seals are hereunto subscribed and set, do hereby command you, the above-named constable, to apprehend the said , and him safely to convey to her Majesty's prison at , in the said county of , and to deliver him to the keeper thereof; and we do hereby command you, the said keeper, to receive him, the said , into your custody in the said prison, and there to detain and keep him until payment shall be made of the aforesaid sum of money, or until he shall be otherwise discharged by due course of law; and we do hereby further command you, the said constable, to seize and secure the estate, as well freehold as copyhold, and all other estate, both real and personal, of him the said , to him belonging wheresoever the same can be discovered and found; and if the said shall not pay or satisfy the said sum of money as ought to be done according to the directions

of the said several Acts, you are forthwith to give notice to us that we may proceed further as the law directs; and for so doing this shall be to you and each of you a sufficient warrant and authority.

Given under our hands and seals at , in the said district, this day of in the year of our Lord 18 .

} *Commissioners of the Income Tax and Inhabited House Duties.*

13.—WARRANT TO SELL COLLECTOR'S ESTATE.

of .

WHEREAS by a certain warrant bearing date the day of , in the year of our Lord 18 , under the hands and seals of and , two of the Commissioners of the Income Tax and Inhabited House Duties acting for the district of , in the county of , reciting that , of , a collector of the duties on profits arising from property, professions, trades, and offices, and the duties in respect of inhabited houses, for the of , in the said district, had, as such collector, collected and received from divers persons within the said the sum of in respect of the said duties, and that the said had neglected to pay the said sum of money, according to the directions of the several Acts of Parliament in that behalf, and that he had detained and did then detain the same in his hands, the said Commissioners, whose hands and seals are subscribed and set to the said warrant, did thereby command one , constable of , in the said county, to seize and secure the estate as well freehold as copyhold, and all other estate, both real and personal, of the said to him belonging, wheresoever the same could be discovered and found.

And whereas by virtue and in pursuance of the said warrant, the several estates, goods, and chattels belonging to the said mentioned and particularized in the schedule or inventory hereunto have been seized and secured.

And whereas and , Commissioners as aforesaid, did, in pursuance of the statute in that behalf, appoint the day of at , in the said district, for a meeting of the Commissioners of the Income Tax and Inhabited House Duties for the said district, and did cause public notice to be given of the time and place when and where such meeting was appointed to be held ten days at least before such meeting.

And whereas the said meeting hath been held in pursuance of the said notice, and the said hath not paid or satisfied, as ought to be done, according to the directions of the said Acts, the said sum of money so detained by him as aforesaid.

Now therefore we, whose hands and seals are hereunto subscribed and set, being the major part of the said Commissioners present at the said meeting, do hereby require and empower you, the above-named , to sell and dispose of the said estates, goods, and chattels so seized and secured for the

cause aforesaid, to satisfy and pay into the hands of the collector of inland revenue at , the aforesaid sum of money so detained by the said , and remaining unpaid as aforesaid, together with the reasonable costs and charges of recovering, raising, and paying the same, and for your so doing this shall be your sufficient authority.

Given under our hands and seals at , in the said district, the day of in the year of our Lord 18 .

Commissioners of the Income Tax and Inhabited House Duties.

14.—Notice of Seizure of Collector's Estate.

Whereas by a certain warrant, bearing date the day of in the year of our Lord 18 , under the hands and seals of two of the Commissioners of Income Tax and Inhabited House Duties acting for the district of , in the county of , reciting that of , a collector of the duties of income tax and the duties in respect of inhabited houses, for the of , in the said district, had as such collector collected and received from divers persons within the said the sum of in respect of the said duties, and that the said had neglected to pay the said sum of money according to the directions of the several Acts of Parliament in that behalf, and that he had detained and did then detain the same in his hands:

The said Commissioners did thereby command the constable of , to whom the said warrant was directed, to seize and secure the estate, as well freehold as copyhold, and all other estate, both real and personal, of the said to him belonging, wheresoever the same could be discovered and found.

And whereas certain estates, goods, and chattels of the said collector have been seized and secured under the said warrant:

Now we the undersigned, and , being two of the said Commissioners acting in the said district, do, in pursuance of the Act of Parliament in that behalf, appoint the day of for a meeting of the Commissioners of Income Tax and Inhabited House Duties for the said district, to be held at in the said district, at of the clock in the noon of the said day; and we do hereby give notice that if the said sum of money so due and owing from the said collector be not paid or satisfied, as ought to be done, according to the directions of the Acts in that behalf, the Commissioners present at such meeting, or the major part of them, will sell and dispose of the said estates, goods, and chattels, to satisfy and pay the said sum of money.

Given under our hands this day of in the year of our Lord 18 .

Commissioners of Income Tax and Inhabited House Duties.

15.—(Charge.) Duplicate of the Income Tax and Inhabited House Duties.

This Duplicate, amounting to , contains the full amount of the sums assessed upon each parish or place in the district of , in the county of , by virtue of the Acts of Parliament granting to her Majesty duties on profits arising from property, professions, trades, and offices, and of the duty in respect of inhabited dwelling-houses, together with the Christian and Surname of the several assessors and collectors, for the year 18 ending 5th day of April, 18 .

Signed, sealed, and delivered by us, this day of , 18 .

Commissioners of the Income Tax and Inhabited House Duty.

To the Commissioners of Inland Revenue.

[*Here follow particulars in such tabular form as the Board shall prescribe.*]

I do hereby certify that I have examined this duplicate thoroughly, and have compared it with the assessments, and that it is a correct duplicate thereof.

Surveyor of Taxes.
Date.

N.B.—This duplicate should be made out after the time appointed by the Taxes Management Act, 1880, for making supplementary assessments of the said duties, and within one month at farthest after all appeals shall have been heard and determined, and should contain the full amount of the sums given in charge to the collectors and to the collector of inland revenue, and which remains charged in the assessments after the appeals; all discharges subsequent to that period must be included in the Schedules, under the 108th section of the Taxes Management Act, 1880.

16.—Commissioners' Schedule of Defaulters.

A Schedule made in pursuance of an Act of Parliament passed in the forty-fourth year of the reign of her present Majesty, intituled the Taxes Management Act, 1880, by the Commissioners of the Income Tax and Inhabited House Duties acting in and for the district of , in the county of , containing the names of certain persons charged with duties and sums of money in the assessments made by virtue of the Tax Acts, within and for the several and respective parishes herein under-mentioned in the said district, for the year ending the 5th day of April, 18 , and whose names have been returned to the said Commissioners by the respective collectors for the said several and respective parishes, as persons who have made default in payment of the several duties and sums of money set opposite to their respective names, and charged upon them respectively in the said assessments, and from whom the respective

collectors have not been able to collect or receive such duties and sums of money for the causes herein mentioned, and which have been duly verified on the [oath *or* affirmation, *as the case may be*], of the several and respective collectors.

[*Here follow particulars in such tabular form as the Board shall prescribe.*]

Given under the hands and seals of us the undersigned, two of the Commissioners of the Income Tax and Inhabited House Duties acting in and for the district aforesaid, at within the said district, the day of in the year of our Lord 18 .

Commissioners of the Income Tax and Inhabited House Duties.

N.B.—A total of each column to be made for each parish or place.

17.—Schedule of Sums Discharged from Assessments Returned in the Duplicates of Charge.

A Schedule containing the sums discharged from the assessments of the duties on profits arising from property, professions, trades, and offices, and of the duty in respect of inhabited dwelling-houses for the undermentioned parishes or places in the district of , in the county of , for the year ending the 5th day of April, 18 , pursuant to the Acts of Parliament relating to the said duties.

[*Here follow particulars in such tabular form as the Board shall prescribe.*]

We, the undersigned Commissioners of the Income Tax and Inhabited House Duties acting in and for the said district of , in the said county, do hereby certify that the above-mentioned sums, amounting to , have been discharged from the respective assessments for the said parishes by the Commissioners of the Income Tax and Inhabited House Duties acting in and for the said district, in due course of law, upon the returns of the collectors duly verified on oath.

Witness our hands and seals the day of , 18 .

Commissioners of the Income Tax and Inhabited House Duties.

[18, 19, and 20, relate to Land Tax.]

21.—Certificate to the High Court of the Names of Collectors who have made Default in accounting for the Duties and Land Tax.

Exhibited before me as the certificate referred to in the annexed affidavit of sworn this day of , 18 .

Income Tax, Inhabited House Duties, and Land Tax, 18 .

In the High Court of Justice.

Exchequer Division.

To the Right Honourable the Lord Chief Baron of the Exchequer Division of the High Court of Justice, and to the Honourable the rest of the Barons of the same Division.

I, of , collector of inland revenue, receiver of the duties on profits arising from property, professions, trades, and offices, the duties on inhabited houses, and of the land tax, charged and assessed in the parishes and places hereinafter mentioned, by virtue of the several Acts of Parliament in that behalf, do hereby humbly certify to the Barons of the Exchequer Division of the High Court of Justice in pursuance of the several statutes in this behalf made and provided, that the several and respective times and places mentioned and described against the name of each division in the schedule hereunto subjoined, were by me appointed according to the directions of the statutes in that case made and provided, for payment to me, as such collector of inland revenue and receiver as aforesaid, of the said duties and the land tax assessed and charged within the several parishes and places, and within the respective divisions mentioned in the said schedule, for the year ending on the 25th day of March and the 5th day of April, 18 , respectively, and which are by the said statutes directed to be collected or levied by the several collectors of the duties and land tax on or before the 1st day of January now last past; and that I, the said collector of inland revenue, did attend at the said several and respective times and places so appointed, as aforesaid for the purpose of receiving the said duties and tax, and that the several collectors of the said duties and tax for the said several parishes and places within the said divisions respectively did then and there make default in paying or accounting for the said duties and tax given to them in charge for the said parishes and places respectively, in the several sums mentioned in the said schedule, and did then and there neglect and wholly make default in delivering to me, the said collector of inland revenue, a schedule in writing signed by such collectors respectively, containing the Christian and Surname of each person making default in payment of the said duties and tax and the respective sums then in arrear from each such defaulter, with an affidavit subscribed and made according to the directions of the statutes in that case made and provided, contrary to the form of the said statutes.

And I, the said collector of inland revenue, in pursuance of the several statutes in this behalf, do hereby further humbly certify that the said schedule hereunto subjoined doth also contain the names of the several collectors in default as aforesaid, and of the several parishes and places in which default has been made as aforesaid, and the divisions where such failure hath happened and the amounts of the duties and tax which remain unpaid or unaccounted for by the said collectors respectively, to the best of my knowledge, and as I verily believe.

Given under my hand this day of in the year of our Lord 18 .

Witness,

SCHEDULE to which the foregoing Certificate doth refer, containing the names of collectors who have not paid or duly accounted, by the delivery of schedules of defaulters, for the full amount of the duties on profits arising from property, professions, trades, and offices, the duties on inhabited houses, and the land tax, for the year ending the 25th day of March and the 5th day of April, 18 , respectively.

[*Here follow the particulars in such tabular form as the Board shall prescribe.*]

Sections 4, 5, 7.

THE THIRD SCHEDULE.[1]

ENACTMENTS REPEALED.

[NOTE.—Portions of Acts which have already been specifically repealed are in some instances included in the repeal in this schedule in order to preclude henceforth the necessity of looking back to previous Acts.]

43 Geo. 3, c. 99 - -	An Act for consolidating certain of the provisions contained in any Act or Acts relating to the duties under the management of the Commissioners for the Affairs of Taxes, and for amending the same.
43 Geo. 3, c. 150 - -	An Act for consolidating certain of the provisions contained in any Act or Acts relating to the duties under the management of the Commissioners for the Affairs of Taxes; and for amending the said Acts so far as the same relate to that part of Great Britain called Scotland.

[1] The Third Schedule is repealed by Statute Law Revision Act, 1894 (57-8 V. c. 56).

43 Geo. 3, c. 161 - -	An Act for repealing the several duties under the management of the Commissioners for the Affairs of Taxes, and granting new duties in lieu thereof; for granting new duties in certain cases therein mentioned; for repealing the duties of excise on licenses, and on carriages constructed by coach-makers, and granting new duties thereon, under the management of the said Commissioners for the Affairs of Taxes; and also new duties on persons selling carriages by auction or on commission; in part; namely,— Sections sixteen, twenty-four, fifty, fifty-one, fifty-three, fifty-four, fifty-six to fifty-eight inclusive, [sixty[1]], sixty-nine, seventy, seventy-two, seventy-six, seventy-eight, and eighty.
45 Geo. 3, c. 71 - -	An Act to amend the several laws relating to the duties under the management of the Commissioners for the Affairs of Taxes.
45 Geo. 3, c. 95 - -	An Act to amend so much of an Act of the forty-third year of his present Majesty, for consolidating certain of the provisions of the Acts relating to the duties in Scotland under the management of the Commissioners for the Affairs of Taxes, as relates to the appointment of assessors and sub-collectors, and the notices required to be delivered to persons assessed to the said duties.
48 Geo. 3, c. 55 - -	An Act for repealing the duties of assessed taxes, and granting new duties in lieu thereof, and certain additional duties to be consolidated therewith; and also for repealing the stamp duties on game certificates, and granting new duties in lieu thereof, to be placed under the management of the Commissioners for the Affairs of Taxes; in part; namely,— Section seven.
48 Geo. 3, c. 141 - -	An Act to amend the Acts relating to the duties of assessed taxes, and of the tax upon the profits of property, professions, trades, and offices, and to regulate the assessment and collection of the same; in part; namely,— Section one, No. 1 Rules to No. 5 Rules inclusive, sections four, five, six, and thirteen.
50 Geo. 3, c. 105 - -	An Act to regulate the manner of making surcharges of the duties of assessed taxes, and of the tax upon the profits arising from property, professions, trades, and offices, and for amending the Acts relating to the said duties respectively.

[1] Sect. 60 is revived by the Statute Law Revision and Civil Procedure Act, 1881 (44-5 V. c. 59), and the Revenue, Friendly Societies, and National Debt Act, 1882 (45-6 V. c. 72), s. 7.

52 Geo. 3, c. 95 - -	An Act to amend and regulate the assessment and collection of the assessed taxes, and of the rates and duties on profits arising from property, professions, trades, and offices in that part of Great Britain called Scotland.
55 Geo. 3, c. 161 - -	An Act to amend and render more effectual an Act of the fifty-second year of his present Majesty, to amend and regulate the assessment and collection of the assessed taxes, and of the rates and duties on profits arising on property, professions, trades, and offices, in that part of Great Britain called Scotland.
1 & 2 Geo. 4, c. 113 -	An Act to continue several Acts for the relief of persons compounding for assessed taxes from an annual assessment, for a further term; and to amend the Acts relating to assessments and composition of assessed taxes.
3 Geo. 4, c. 88 - -	An Act to amend the laws relating to the land and assessed taxes, and to regulate the appointment of receivers general in England and Wales.
6 Geo. 4, c. 7 - -	An Act for the further repeal of certain duties of assessed taxes, and for granting relief in the cases therein mentioned; in part; namely,— Section eleven.
6 Geo. 4, c. 32 - -	An Act to provide for the application of moneys arising in certain cases of assessments for land tax in Great Britain.
1 & 2 Will. 4, c. 18 -	An Act for transferring the duties of receivers general of the land and assessed taxes to persons executing the offices of inspectors of taxes, and for making other provisions for the receipt and remittance of the said taxes.
4 & 5 Will. 4, c. 60 -	An Act to amend the laws relating to the land and assessed taxes, and to consolidate the boards of stamps and taxes; in part; namely,— Sections one, six, seven, eleven, twelve, thirteen, fourteen, and fifteen.
5 & 6 Will. 4, c. 20 -	An Act to consolidate certain offices in the collection of the revenues of stamps and taxes, and to amend the laws relating thereto; in part; namely,— Sections six, seven, ten to twenty-one inclusive.
5 & 6 Will. 4, c. 64 -	An Act to alter certain duties of stamps and assessed taxes, and to regulate the collection thereof; in part; namely,— Sections ten to thirteen inclusive.

6 & 7 Will. 4, c. 65 -	An Act for granting relief from the duties of assessed taxes, and on stage carriages, in certain cases, and to regulate the charging of the duty payable for taking or killing game in Great Britain; and to provide for the collection of certain local taxes in Scotland; in part; namely,— Sections ten to twelve inclusive.
1 Vict. c. 61 - -	An Act to extend an exemption granted by an Act of the last session of Parliament from the duties of assessed taxes, in respect of certain carriages with less than four wheels; and to amend the laws relating to the said duties; in part; namely,— Section three.
5 & 6 Vict. c. 37 - -	An Act to continue until the fifth day of April one thousand eight hundred and forty-four compositions for assessed taxes, and to amend the laws relating to the land and assessed taxes; in part; namely,— Section seven.
6 & 7 Vict. c. 24 - -	An Act to continue until the fifth day of April one thousand eight hundred and forty-five compositions for assessed taxes, and to amend the laws relating to the land and assessed taxes, and also the laws relating to the duties on profits arising from property, professions, trades, and offices.
7 & 8 Vict. c. 46 - -	An Act to continue until the fifth day of April one thousand eight hundred and forty-six compositions for assessed taxes, and to amend certain laws relating to duties under the management of the Commissioners of Stamps and Taxes.
9 & 10 Vict. c. 56 -	An Act to provide forms of proceedings under the Acts relating to the duties of assessed taxes, and the duties on profits arising from property, professions, trades, and offices in England.
17 Vict. c. 1 - -	An Act to explain and amend an Act of the last session relating to the duties of assessed taxes, and to authorize justices of the peace in Ireland to administer oaths required in matters relating to income tax; in part; namely,— Section five.
17 & 18 Vict. c. 85 -	An Act for better securing the collecting and accounting for the land tax, assessed taxes, and income tax by the collectors thereof.
19 & 20 Vict. c. 80 -	An Act to grant relief in assessing the income tax on lands in Scotland in respect of certain public burdens charged thereon; to alter and regulate the allowances to clerks to the Commissioners of Income Tax; and to amend the laws relating to the land, assessed, and income taxes, and the redemption and purchase of the land tax; in part; namely,— Sections two and four.

20 & 21 Vict. c. 28 -	An Act to amend the laws relating to the payment of the land and assessed taxes and property and income tax in Scotland; in part; namely,— Section two.
24 & 25 Vict. c. 91 -	An Act to amend the laws relating to the Inland Revenue; in part; namely,— Sections thirty-seven to forty-five inclusive.
25 Vict. c. 22 - -	An Act to continue certain duties of Customs and Inland Revenue for the service of her Majesty, and to grant, alter, and repeal certain other duties; in part; namely,— Sections forty-two to forty-five inclusive.
26 & 27 Vict. c. 33 -	An Act for granting to her Majesty certain duties of Inland Revenue, and to amend the laws relating to the Inland Revenue; in part; namely,— Section twenty-three.
27 & 28 Vict. c. 56 -	An Act for granting to her Majesty certain stamp duties, and to amend the laws relating to the Inland Revenue; in part; namely,— Sections fifteen and nineteen.
28 Vict. c. 30 - -	An Act to grant certain duties of Customs and Inland Revenue; in part; namely,— Section five.
29 & 30 Vict. c. 64 -	An Act to amend the laws relating to the Inland Revenue; in part; namely,— Sections seventeen and eighteen.
30 & 31 Vict. c. 90 -	An Act to alter certain duties and to amend the laws relating to the Inland Revenue; in part; namely,— Section twenty-six.
32 & 33 Vict. c. 14 -	An Act to grant certain duties of Customs and Inland Revenue, and to repeal and alter other duties of Customs and Inland Revenue; in part; namely,— Part II., sections five to eleven inclusive.
33 Vict. c. 4 - -	Income Tax Assessment Act, 1870.
33 & 34 Vict. c. 32 -	The Customs and Inland Revenue Act, 1870; in part; namely,— Part V. (section sixteen).
34 & 35 Vict. c. 103 -	The Customs and Inland Revenue Act, 1871; in part; namely,— Section thirty.
36 Vict. c. 8 - -	An Act to make provision for the assessment of income tax, and as to assessors in the metropolis; in part; namely,— Sections one and two.

36 Vict. c. 18 - -	The Customs and Inland Revenue Act, 1873; in part; namely,— Sections six to nine inclusive.
37 Vict. c. 16 - -	The Customs and Inland Revenue Act, 1874; in part; namely,— Sections eight to ten inclusive.
41 Vict. c. 15 - -	The Customs and Inland Revenue Act, 1878; in part; namely,— Sections fourteen and fifteen.
42 & 43 Vict. c. 21 -	The Customs and Inland Revenue Act, 1879; in part; namely,— Sections nineteen to twenty-five inclusive.

THE FOURTH SCHEDULE.

Sections 5, 7.

ENACTMENTS in which a reference to this Act is to be substituted.

38 Geo. 3, c. 5 - -	An Act for granting to his Majesty an aid by a land tax to be raised in Great Britain for the service of the year one thousand seven hundred and ninety-eight.
43 Geo. 3, c. 161 [ss. 10, 15, 17, 55, 59, 62, and 77]	An Act for repealing the several duties under the management of the Commissioners for the Affairs of Taxes, and granting new duties in lieu thereof; for granting new duties in certain cases therein mentioned; for repealing the duties of excise on licenses, and on carriages constructed by coach-makers, and granting new duties thereon, under the management of the said Commissioners for the Affairs of Taxes; and also new duties on persons selling carriages by auction or on commission.
48 Geo. 3, c. 55 [Sch. A.]	An Act for repealing the duties of assessed taxes, and granting new duties in lieu thereof, and certain additional duties to be consolidated therewith; and also for repealing the stamp duties on game certificates, and granting new duties in lieu thereof, to be placed under the management of the Commissioners for the Affairs of Taxes.
57 Geo. 3, c. 25 [ss. 1, 2, 3, and 4]	An Act to explain and amend an Act made in the forty-eighth year of his present Majesty, for repealing the duties of assessed taxes, and granting new duties in lieu thereof; and to exempt such dwelling-houses as may be employed for the sole purpose of trade, or of lodging goods, wares, or merchandize, from the duties charged by the said Act (23rd May 1817).

4 & 5 Will. 4, c. 60 [ss. 2, 5, 8, and 9]	An Act to amend the laws relating to the land tax, and to consolidate the boards of stamps and taxes.
6 & 7 Will. 4, c. 28 -	An Act to enable persons to make deposits of stock or exchequer bills in lieu of giving security by bond to the Postmaster-General, and Commissioners of Land Revenue, Customs, Excise, Stamps, and Taxes.
5 & 6 Vict. c. 35 - -	The Income Tax Act, 1842.
5 & 6 Vict. c. 37 - - [ss. 3, 4, 5, and 6.]	An Act to continue until the fifth day of April one thousand eight hundred and forty-four compositions for assessed taxes; and to amend the laws relating to the land and assessed taxes.
12 Vict. c. 1 - -	An Act to consolidate the Board of Excise and Stamps and Taxes into one Board of Commissioners of Inland Revenue, and to make provision for the collection of such revenue.
16 & 17 Vict. c. 34 -	The Income Tax Act, 1853.
23 Vict. c. 14 - -	An Act for granting to her Majesty duties on profits arising from property, professions, trades, and offices.
29 Vict. c. 36 - - [s. 8.]	An Act to grant, alter, and repeal certain duties of Customs and Inland Revenue, and for other purposes relating thereto.
34 & 35 Vict. c. 103 - [s. 31.]	The Customs and Inland Revenue Act, 1871,
41 Vict. c. 15 - - [ss. 12, 13, and 16.]	The Customs and Inland Revenue Act, 1878.

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